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STATE OF NORTH CAROLINA

SESSION LAWS AND RESOLUTIONS

PASSED BY THE

1977 GENERAL ASSEMBLY

AT ITS

SECOND SESSION 1978*

HELD IN THE CITY OF RALEIGH

BEGINNING ON

WEDNESDAY, THE THIRTY-FIRST DAY OF MAY, A.D. 1978

ISSUED BY
SECRETARY OF STATE THAD EURE

PUBLISHED BY AUTHORITY

*The 1977 General Assembly convened on January 12, 1977, and adjourned on July 1, 1977, to reconvene on May 31, 1978; the body adjourned *sine die* on June 16, 1978. Session Law Chapters 1 through 1131 and Resolutions 1 through 99 were passed during the First Session 1977 and are published in a separate volume. Session Law Chapters 1132 through 1298 and Resolutions 100 through 136 were passed during the Second Session 1978 and are published in this volume. Since the Second Session 1978 was brief and produced a relatively small number of Session Laws and Resolutions, the index to this volume is not cumulative; only the Session Laws and Resolutions of the 1977 General Assembly, Second Session 1978, are indexed in this volume. Session Laws and Resolutions of the 1977 General Assembly, First Session 1977, are indexed in the separate volume.

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STATE OF NORTH CAROLINA

PRESIDING OFFICERS OF THE GENERAL ASSEMBLY 1977 SECOND SESSION 1978

JAMES C. GREEN President of the Senate Bladen
CARL J. STEWART, JR. Speaker of the House of Representatives Gaston

EXECUTIVE DEPARTMENT

(Offices established by the Constitution, filled by election, and
constituting the Council of State)

*JAMES B. HUNT, JR. Governor Wilson
*JAMES C. GREEN Lt. Governor Bladen
*THAD EURE Secretary of State Hertford
HENRY L. BRIDGES Auditor Guilford
HARLAN E. BOYLES Treasurer Wake
A. CRAIG PHILLIPS Superintendent of
Public Instruction Guilford
*RUFUS L. EDMISTEN Attorney General Watauga
JAMES A. GRAHAM Commissioner of
Agriculture Rowan
JOHN C. BROOKS Commissioner of Labor Wake
JOHN RANDOLPH INGRAM Commissioner of
Insurance Randolph

*Renders direct services to the General Assembly.

The political affiliation of legislators and members of the Council of State listed on this and the following pages is Democratic unless designated Republican by the abbreviation (R).

G.S. 147-16.1 authorizes publication of Executive Orders of the Governor in the Session Laws of North Carolina. Executive Orders from Governor Hunt are carried in the Appendix to this volume.

GENERAL ASSEMBLY 1977

SENATE OFFICERS

<i>Name</i>	<i>Position</i>	<i>Address</i>
JAMES C. GREEN	President	Clarkton
JOHN T. HENLEY	President pro tempore	Hope Mills
SYLVIA M. FINK	Principal Clerk	Raleigh
LEROY CLARK, JR.	Reading Clerk	Wendell
VINSON BRIDGERS, JR.	Sergeant-at-Arms	Raleigh

SENATORS

<i>DISTRICT</i>	<i>NAME</i>	<i>COUNTY</i>	<i>ADDRESS</i>
1	MELVIN R. DANIELS, JR.	Pasquotank	Elizabeth City
1	JOSEPH J. HARRINGTON	Bertie	Lewiston
2	D. LIVINGSTONE STALLINGS	Craven	New Bern
3	JERRY POPKIN	Onslow	Jacksonville
4	WILLIAM GREY SMITH	New Hanover	Wilmington
5	HAROLD W. HARDISON	Lenoir	Deep Run
6	JULIAN R. ALLSBROOK	Halifax	Roanoke Rapids
6	VERNON E. WHITE	Pitt	Winterville
7	DALLAS L. ALFORD, JR.	Nash	Rocky Mount
7	JAMES D. SPEED	Franklin	Louisburg
8	HENSON P. BARNES	Wayne	Goldsboro
9	EDWARD RENFROW	Johnston	Smithfield
10	JOHN T. HENLEY	Cumberland	Hope Mills
10	JOE B. RAYNOR	Cumberland	Fayetteville
11	R.C. SOLES, JR.	Columbus	Tabor City
12	LUTHER J. BRITT, JR.	Robeson	Lumberton
13	KENNETH C. ROYALL, JR.	Durham	Durham
13	WILLIS P. WHICHARD	Durham	Durham
14	I. BEVERLY LAKE, JR.	Wake	Raleigh
14	*JOHN W. WINTERS, SR.	Wake	Raleigh
14	ROBERT W. WYNNE	Wake	Raleigh
15	GEORGE W. MARION, JR.	Surry	Dobson
15	**WESLEY D. WEBSTER	Rockingham	Madison
16	CHARLES E. VICKERY	Orange	Chapel Hill
16	RUSSELL WALKER	Randolph	Asheboro
17	JAMES B. GARRISON	Stanly	Albemarle
17	ROBERT B. JORDAN, III	Montgomery	Mt. Gilead
18	RALPH H. SCOTT	Alamance	Haw River
19	MRS. RACHEL G. GRAY	Guilford	High Poin.
19	MRS. KATHERINE H. SEBO	Guilford	Greensboro
19	McNEILL SMITH	Guilford	Greensboro
20	E. LAWRENCE DAVIS	Forsyth	Winston-Salem
20	CARL D. TOTHEROW	Forsyth	Winston-Salem
21	JACK CHILDERS	Davidson	Lexington
21	ROBERT VANCE SOMERS (R)	Rowan	Salisbury
22	FRED D. ALEXANDER	Mecklenburg	Charlotte
22	W. CRAIG LAWING	Mecklenburg	Charlotte
22	JAMES D. McDUFFIE	Mecklenburg	Charlotte
22	***CAROLYN MATHIS (R)	Mecklenburg	Charlotte
23	T. CASS BALLENGER (R)	Catawba	Hickory
23	BOBBY LEE COMBS	Catawba	Hickory
24	DONALD R. KINCAID (R)	Caldwell	Lenoir
24	ROGER D. SHARPE	Burke	Morganton
25	OLLIE HARRIS	Cleveland	Kings Mountain
25	MRS. HELEN RHYNE MARVIN	Gaston	Gastonia
25	MARSHALL A. RAUCH	Gaston	Gastonia
26	I.C. CRAWFORD	Buncombe	Asheville
26	ROBERT STRINGFIELD SWAIN	Buncombe	Asheville
27	CECIL J. HILL	Transylvania	Brevard
27	JOE H. PALMER	Haywood	Clyde

* Resigned; replaced by Sen. Clarence Lightner, Raleigh, appointed August 9, 1977.

** Resigned; replaced by Sen. Conrad Riley Duncan, Jr., Stoneville, appointed October 11, 1977.

*** Changed political affiliation to Democratic, April 8, 1977.

HOUSE OFFICERS

Name	Position	Address
CARL J. STEWART, JR.	Speaker	Gastonia
H. HORTON ROUNTREE	Speaker pro tempore	Greenville
MRS. GRACE A. COLLINS	Principal Clerk	Fuquay-Varina
SAM J. BURROW, JR.	Reading Clerk	Asheboro
LARRY P. EAGLES	Sergeant-at-Arms	Tarboro

REPRESENTATIVES

DISTRICT	NAME	COUNTY	ADDRESS
1	VERNON G. JAMES	Pasquotank	Elizabeth City
1	W. STANFORD WHITE	Dare	Manns Harbor
2	HOWARD B. CHAPIN	Beaufort	Washington
3	CHRIS S. BARKER, JR.	Craven	New Bern
3	JOE L. BRIGHT	Craven	Vanceboro
3	DANIEL T. LILLEY	Lenoir	Kinston
4	G. MALCOLM FULCHER, JR.	Carteret	Atlantic Beach
4	MRS. WILDA HURST	Onslow	Hubert
4	*RONALD EARL MASON	Carteret	Beaufort
5	ROBERTS H. JERNIGAN, JR.	Hertford	Ahoskie
5	J. GUY REVELLE, SR.	Northampton	Conway
6	GEORGE P. CULLIPHER	Martin	Williamston
6	GEORGE AUSTIN HUX	Halifax	Halifax
7	ALLEN C. BARBEE	Nash	Spring Hope
7	A. HARTWELL CAMPBELL	Wilson	Wilson
7	JOHN ED DAVENPORT	Nash	Nashville
7	JAMES E. EZZELL, JR.	Nash	Rocky Mount
8	SAM D. BUNDY	Pitt	Farmville
8	H. HORTON ROUNTREE	Pitt	Greenville
9	MRS. JOHN B. CHASE	Wayne	Eureka
9	RICHARD R. GRADY	Wayne	Seven Springs
10	THOMAS J. BAKER	Duplin	Wallace
11	ALLEN C. WARD	Brunswick	Shallotte
12	S. THOMAS RHODES (R)	New Hanover	Wilmington
12	BENJAMIN D. SCHWARTZ	New Hanover	Wilmington
13	JOHN T. CHURCH	Vance	Henderson
13	THOMAS W. ELLIS, JR.	Vance	Henderson
13	WILLIAM T. WATKINS	Granville	Oxford
14	JACK M. GARDNER	Johnston	Smithfield
14	BARNEY PAUL WOODARD	Johnston	Princeton
15	ALLEN ADAMS	Wake	Raleigh
15	MRS. RUTH E. COOK	Wake	Raleigh
15	WILLIAM A. CREECH	Wake	Raleigh
15	**ROBERT L. FARMER	Wake	Raleigh
15	WILLIAM C. HOLROYD, JR.	Wake	Raleigh
15	JOSEPH E. JOHNSON	Wake	Raleigh
16	MRS. PATRICIA GRIFFIN	Durham	Durham
16	***H. M. MICHAUX, JR.	Durham	Durham
16	GEORGE M. MILLER, JR.	Durham	Durham
17	EDWARD S. HOLMES	Chatham	Pittsboro
17	MRS. PATRICIA S. HUNT	Orange	Chapel Hill
18	CARSON GREGORY	Harnett	Angier
18	FLETCHER HARRIS	Lee	Sanford
19	EDD NYE	Bladen	Elizabethtown
19	GEORGE RONALD TAYLOR	Bladen	Elizabethtown
19	RICHARD WRIGHT	Columbus	Tabor City
20	R.D. BEARD	Cumberland	Fayetteville
20	CHARLES HOLT	Cumberland	Fayetteville
20	HECTOR E. RAY	Cumberland	Fayetteville
20	MRS. LURA S. TALLY	Cumberland	Fayetteville
20	HENRY M. TYSON	Cumberland	Fayetteville
21	#JOY J. JOHNSON	Robeson	Fairmont
21	HORACE LOCKLEAR	Robeson	Lumberton
21	DAVID R. PARNELL	Robeson	Parkton

* Resigned; replaced by Rep. Bruce Ethridge, Swansboro, appointed June 12, 1978.

** Resigned; replaced by Rep. Wilma Woodard, Garner, appointed January 13, 1978.

*** Resigned; replaced by Rep. A.J. Howard Clement, III, Durham, appointed August 3, 1977.

Resigned; replaced by Rep. Robert E. Davis, Maxton, appointed February 17, 1978.

22	##	CONRAD RILEY DUNCAN, JR.	Rockingham	Stoneville
22		DANIEL A.C. HALL, JR.	Alamance	Burlington
22	###	W.S. HARRIS, JR.	Alamance	Graham
22		MRS. BERTHA MERRILL HOLT	Alamance	Burlington
23		HENRY E. FRYE	Guilford	Greensboro
23	+	THOMAS O. GILMORE	Guilford	Greensboro
23		JAMES F. MORGAN	Guilford	High Point
23		THOMAS B. SAWYER	Guilford	Greensboro
23		MRS. MARY P. SEYMOUR	Guilford	Greensboro
23		W. MARCUS SHORT	Guilford	Greensboro
23		CHARLES E. WEBB	Guilford	Greensboro
24		HAROLD J. BRUBAKER (R)	Randolph	Asheboro
24		J.T. PUGH, JR.	Randolph	Asheboro
25		T. CLYDE AUMAN	Moore	West End
26		FOYLE HIGHTOWER, JR.	Anson	Wadesboro
27		THOMAS B. HUNTER	Richmond	Rockingham
28		PORTER C. COLLINS, JR.	Alleghany	Laurel Springs
28		DAVID H. DIAMONT	Surry	Pilot Mountain
28		J. WORTH GENTRY	Stokes	King
29		JUDSON DAVID DeRAMUS, JR.	Forsyth	Winston-Salem
29	++	RICHARD C. ERWIN	Forsyth	Winston-Salem
29		TED KAPLAN	Forsyth	Winston-Salem
29		NED R. SMITH	Forsyth	Winston-Salem
29		MRS. MARGARET TENNILLE	Forsyth	Winston-Salem
30	+++	PETER W. HAIRSTON	Davie	Advance
30		J.E. LAMBETH	Davidson	Thomasville
30		JOHN VARNER	Davidson	Lexington
31		ROBIE L. NASH	Rowan	Salisbury
31		A. NEAL SMITH	Rowan	Woodleaf
32		MRS. JANET W. PICKLER	Stanly	New London
33		AARON W. PLYLER	Union	Monroe
33		DWIGHT W. QUINN	Cabarrus	Kannapolis
33		MRS. BETTY DORTON THOMAS	Cabarrus	Concord
34		JAMES H. EDWARDS	Caldwell	Granite Falls
34		ALBERT JENNINGS MARTIN	Yadkin	Boonville
34		EUGENE M. WHITE	Caldwell	Hudson
35		J.P. HUSKINS	Iredell	Statesville
35		WILLIAM H. McMILLAN	Iredell	Statesville
36		MRS. MARILYN R. BISSELL (R)	Mecklenburg	Charlotte
36		MRS. LOUISE S. BRENNAN	Mecklenburg	Charlotte
36		MRS. RUTH M. EASTERLING	Mecklenburg	Charlotte
36		GUS N. ECONOMOS	Mecklenburg	Charlotte
36		MRS. JO GRAHAM FOSTER	Mecklenburg	Charlotte
36		H. PARKS HELMS	Mecklenburg	Charlotte
36		LeROY P. SPOON, JR. (R)	Mecklenburg	Charlotte
36		BEN TISON	Mecklenburg	Charlotte
37		J. REID POOVEY (R)	Catawba	Hickory
37		MRS. FRANCES E. SETZER	Catawba	Newton
38		E. GRAHAM BELL	Gaston	Gastonia
38		DAVID W. BUMGARDNER, JR.	Gaston	Belmont
38		JOHN R. GAMBLE, JR.	Lincoln	Lincolnton
38		CARL J. STEWART, JR.	Gaston	Gastonia
39		WILLIS H. LACHOT, JR.	Burke	Morganton
39		MRS. MYRTLE E. WISEMAN	Avery	Spruce Pine
40		ROBERT Z. FALLS	Cleveland	Shelby
40		ROBERT A. JONES	Rutherford	Forest City
40		MRS. EDITH L. LUTZ	Cleveland	Lawndale
41		GLENN A. MORRIS	McDowell	Marion
42		FRED R. DORSEY (R)	Henderson	East Flat Rock
43		JAMES McCLURE CLARKE	Buncombe	Fairview
43		CLAUDE DeBRUHL	Buncombe	Candler
43		GORDON H. GREENWOOD	Buncombe	Black Mountain
43		MRS. MARY C. NESBITT	Buncombe	Asheville
44		ERNEST B. MESSER	Haywood	Canton
44		LISTON B. RAMSEY	Madison	Marshall
45		JEFF H. ENLOE, JR.	Macon	Franklin

Resigned; replaced by Rep. Robert L. McAlister, Ruffin, appointed October 13, 1977.

Resigned; replaced by Rep. Timothy H. McDowell, Mebane, appointed September 19, 1977.

+ Resigned; replaced by Rep. Byron Haworth, High Point, appointed May 9, 1978.

++ Resigned; replaced by Rep. Harold L. Kennedy, Winston-Salem, appointed February 9, 1978.

+++ Resigned; replaced by Rep. Ramey F. Kemp, Mocksville, appointed January 6, 1978.

LEGISLATIVE SERVICES COMMISSION

SENATOR JOHN T. HENLEY, *Co-Chairman*

SPEAKER CARL J. STEWART, JR., *Co-Chairman*

SEN. JAMES B. GARRISON

SEN. HAROLD W. HARDISON

SEN. JOSEPH J. HARRINGTON

SEN. JOE H. PALMER

SEN. MARSHALL A. RAUCH

SEN. KENNETH C. ROYALL, JR.

REP. HENRY E. FRYE

REP. GORDON H. GREENWOOD

REP. EDWARD S. HOLMES

REP. DWIGHT W. QUINN

REP. H. HORTON ROUNTREE

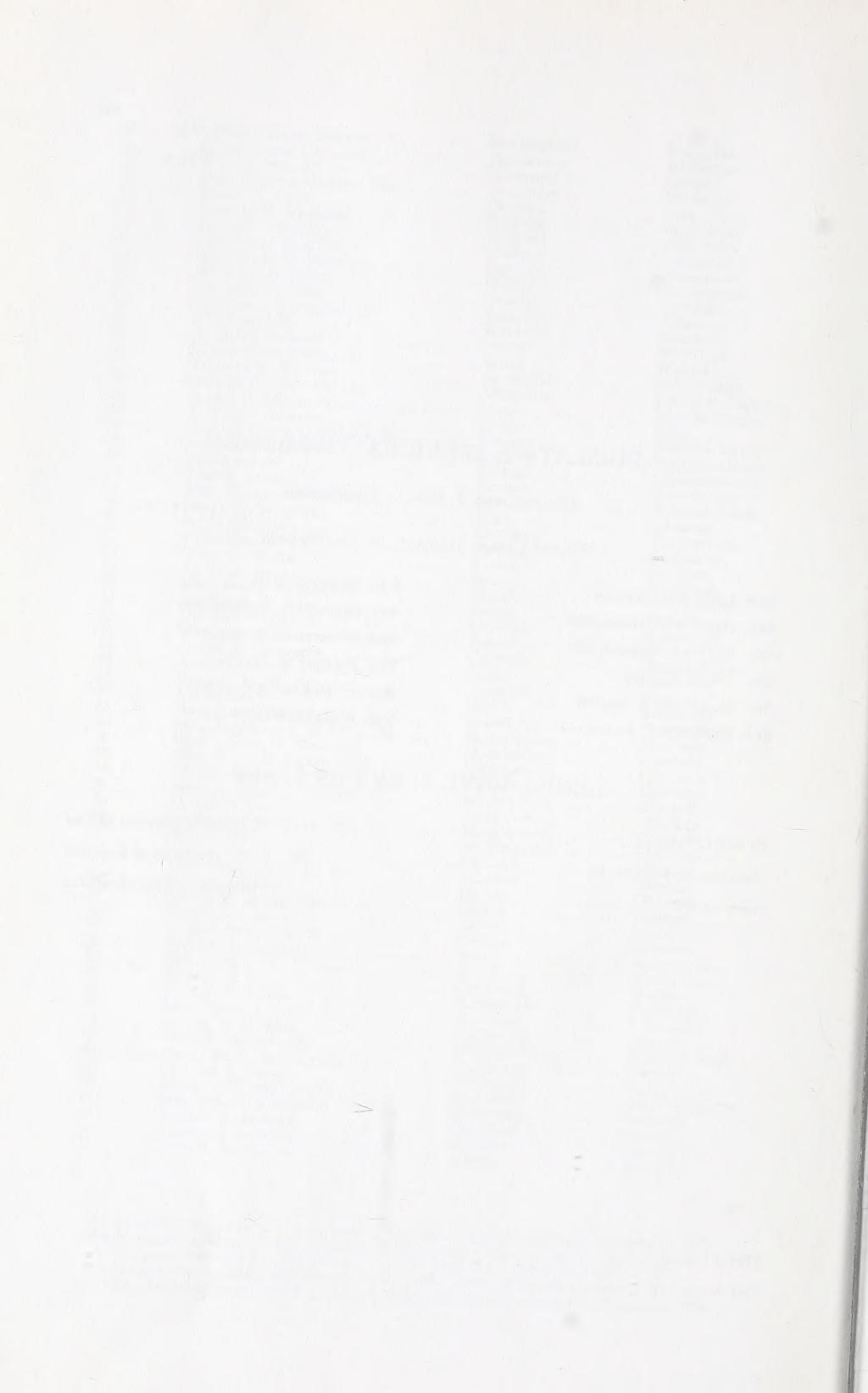
REP. MARGARET TENNILLE

LEGISLATIVE SERVICES STAFF

CLYDE L. BALL Legislative Services Officer

WILLIAM H. POTTER, JR. Director of Research

JOHN ALLEN Director of Fiscal Research



CONSTITUTION
OF THE
State of North Carolina

PREAMBLE

We, the people of the State of North Carolina, grateful to Almighty God, the Sovereign Ruler of Nations, for the preservation of the American Union and the existence of our civil, political and religious liberties, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity, do, for the more certain security thereof and for the better government of this State, ordain and establish this Constitution.

ARTICLE I

DECLARATION OF RIGHTS

That the great, general, and essential principles of liberty and free government may be recognized and established, and that the relations of this State to the Union and government of the United States and those of the people of this State to the rest of the American people may be defined and affirmed, we do declare that:

SECTION 1. *The equality and rights of persons.* We hold it to be self-evident that all persons are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.

SEC. 2. *Sovereignty of the people.* All political power is vested in and derived from the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

SEC. 3. *Internal government of the State.* The people of this State have the inherent, sole, and exclusive right of regulating the internal government and police thereof, and of altering or abolishing their Constitution and form of government whenever it may be necessary to their safety and happiness; but every such right shall be exercised in pursuance of law and consistently with the Constitution of the United States.

SEC. 4. *Secession prohibited.* This State shall ever remain a member of the American Union; the people thereof are part of the American nation; there is no right on the part of this State to secede; and all attempts, from whatever source or upon whatever pretext, to dissolve this Union or to sever this Nation, shall be resisted with the whole power of the State.

SEC. 5. *Allegiance to the United States.* Every citizen of this State owes paramount allegiance to the Constitution and government of the United States, and no law or ordinance of the State in contravention or subversion thereof can have any binding force.

SEC. 6. *Separation of powers.* The legislative, executive, and supreme judicial powers of the State government shall be forever separate and distinct from each other.

SEC. 7. *Suspending laws.* All power of suspending laws or the execution of laws by any authority, without the consent of the representatives of the people, is injurious to their rights and shall not be exercised.

SEC. 8. *Representation and taxation.* The people of this State shall not be taxed or made subject to the payment of any impost or duty without the consent of themselves or their representatives in the General Assembly, freely given.

SEC. 9. *Frequent elections.* For redress of grievances and for amending and strengthening the laws, elections shall be often held.

SEC. 10. *Free elections.* All elections shall be free.

SEC. 11. *Property qualifications.* As political rights and privileges are not dependent upon or modified by property, no property qualification shall affect the right to vote or hold office.

SEC. 12. *Right of assembly and petition.* The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the General Assembly for redress of grievances; but secret political societies are dangerous to the liberties of a free people and shall not be tolerated.

SEC. 13. *Religious liberty.* All persons have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority shall, in any case whatever, control or interfere with the rights of conscience.

SEC. 14. *Freedom of speech and press.* Freedom of speech and of the press are two of the great bulwarks of liberty and therefore shall never be restrained, but every person shall be held responsible for their abuse.

SEC. 15. *Education.* The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right.

SEC. 16. *Ex post facto laws.* Retrospective laws, punishing acts committed before the existence of such laws and by them only declared criminal, are oppressive, unjust, and incompatible with liberty, and therefore no ex post facto law shall be enacted. No law taxing retrospectively sales, purchases, or other acts previously done shall be enacted.

SEC. 17. *Slavery and involuntary servitude.* Slavery is forever prohibited. Involuntary servitude, except as a punishment for crime whereof the parties have been adjudged guilty, is forever prohibited.

SEC. 18. *Courts shall be open.* All courts shall be open; every person for an injury done him in his lands, goods, person, or reputation shall have remedy by due course of law; and right and justice shall be administered without favor, denial, or delay.

SEC. 19. *Law of the land; equal protection of the laws.* No person shall be taken, imprisoned, or dis seized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of the land. No person shall be denied the equal protection of the laws; nor shall any person be subjected to discrimination by the State because of race, color, religion, or national origin.

SEC. 20. *General warrants.* General warrants, whereby any officer or other person may be commanded to search suspected places without evidence of the act committed, or to seize any person or persons not named, whose offense is not particularly described and supported by evidence, are dangerous to liberty and shall not be granted.

SEC. 21. *Inquiry into restraints on liberty.* Every person restrained of his liberty is entitled to a remedy to inquire into the lawfulness thereof, and to remove the restraint if unlawful, and that remedy shall not be denied or delayed. The privilege of the writ of habeas corpus shall not be suspended.

SEC. 22. *Modes of prosecution.* Except in misdemeanor cases initiated in the District Court Division, no person shall be put to answer any criminal charge but by indictment, presentment, or impeachment. But any person, when represented by counsel, may, under such regulations as the General Assembly shall prescribe, waive indictment in noncapital cases.

SEC. 23. *Rights of accused.* In all criminal prosecutions, every person charged with crime has the right to be informed of the accusation and to confront the accusers and witnesses with other testimony, and to have counsel for defense, and not be compelled to give self-incriminating evidence, or to pay costs, jail fees, or necessary witness fees of the defense, unless found guilty.

SEC. 24. *Right of jury trial in criminal cases.* No person shall be convicted of any crime but by the unanimous verdict of a jury in open court. The General Assembly may, however, provide for other means of trial for misdemeanors, with the right of appeal for trial de novo.

SEC. 25. *Right of jury trial in civil cases.* In all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and shall remain sacred and inviolable.

SEC. 26. *Jury service.* No person shall be excluded from jury service on account of sex, race, color, religion, or national origin.

SEC. 27. *Bail, fines, and punishments.* Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

SEC. 28. *Imprisonment for debt.* There shall be no imprisonment for debt in this State, except in cases of fraud.

SEC. 29. *Treason against the State.* Treason against the State shall consist only of levying war against it or adhering to its enemies by giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. No conviction of treason or attainder shall work corruption of blood or forfeiture.

SEC. 30. *Militia and the right to bear arms.* A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and, as standing armies in time of peace are dangerous to liberty, they shall not be maintained, and the military shall be kept under strict subordination to, and governed by, the civil power. Nothing herein shall justify the practice of carrying concealed weapons, or prevent the General Assembly from enacting penal statutes against that practice.

SEC. 31. *Quartering of soldiers.* No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner prescribed by law.

SEC. 32. *Exclusive emoluments.* No person or set of persons is entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.

SEC. 33. *Hereditary emoluments and honors.* No hereditary emoluments, privileges, or honors shall be granted or conferred in this State.

SEC. 34. *Perpetuities and monopolies.* Perpetuities and monopolies are contrary to the genius of a free state and shall not be allowed.

SEC. 35. *Recurrence to fundamental principles.* A frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

SEC. 36. *Other rights of the people.* The enumeration of rights in this Article shall not be construed to impair or deny others retained by the people.

ARTICLE II

LEGISLATIVE

SECTION 1. *Legislative power.* The legislative power of the State shall be vested in the General Assembly, which shall consist of a Senate and a House of Representatives.

SEC. 2. *Number of Senators.* The Senate shall be composed of 50 Senators, biennially chosen by ballot.

SEC. 3. *Senate districts; apportionment of Senators.* The Senators shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the senate districts and the apportionment of Senators among those districts, subject to the following requirements:

(1) Each Senator shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Senator represents being determined for this purpose by dividing the population of the district that he represents by the number of Senators apportioned to that district;

(2) Each senate district shall at all times consist of contiguous territory;

(3) No county shall be divided in the formation of a senate district;

(4) When established, the senate districts and the apportionment of Senators shall remain unaltered until the return of another decennial census of population taken by order of Congress.

SEC. 4. *Number of Representatives.* The House of Representatives shall be composed of 120 Representatives, biennially chosen by ballot.

SEC. 5. *Representative districts; apportionment of Representatives.* The Representatives shall be elected from districts. The General Assembly, at the first regular session

convening after the return of every decennial census of population taken by order of Congress, shall revise the representative districts and the apportionment of Representatives among those districts, subject to the following requirements:

(1) Each Representative shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Representative represents being determined for this purpose by dividing the population of the district that he represents by the number of Representatives apportioned to that district;

(2) Each representative district shall at all times consist of contiguous territory;

(3) No county shall be divided in the formation of a representative district.

(4) When established, the representative districts and the apportionment of Representatives shall remain unaltered until the return of another decennial census of population taken by order of Congress.

SEC. 6. *Qualifications for Senator.* Each Senator, at the time of his election, shall be not less than 25 years of age, shall be a qualified voter of the State, and shall have resided in the State as a citizen for two years and in the district for which he is chosen for one year immediately preceding his election.

SEC. 7. *Qualifications for Representative.* Each Representative, at the time of his election, shall be a qualified voter of the State, and shall have resided in the district for which he is chosen for one year immediately preceding his election.

SEC. 8. *Elections.* The election for members of the General Assembly shall be held for the respective districts in 1972 and every two years thereafter, at the places and on the day prescribed by law.

SEC. 9. *Term of office.* The term of office of Senators and Representatives shall commence at the time of their election.

SEC. 10. *Vacancies.* Every vacancy occurring in the membership of the General Assembly by reason of death, resignation, or other cause shall be filled in the manner prescribed by law.

SEC. 11. *Sessions.*

(1) *Regular sessions.* The General Assembly shall meet in regular session in 1973 and every two years thereafter on the day prescribed by law. Neither house shall proceed upon public business unless a majority of all of its members are actually present.

(2) *Extra sessions on legislative call.* The President of the Senate and the Speaker of the House of Representatives shall convene the General Assembly in extra session by their joint proclamation upon receipt by the President of the Senate of written requests therefor signed by three-fifths of all the members of the Senate and upon receipt by the Speaker of the House of Representatives of written requests therefor signed by three-fifths of all the members of the House of Representatives.

SEC. 12. *Oath of members.* Each member of the General Assembly, before taking his seat, shall take an oath or affirmation that he will support the Constitution and laws of the United States and the Constitution of the State of North Carolina, and will faithfully discharge his duty as a member of the Senate or House of Representatives.

SEC. 13. *President of the Senate.* The Lieutenant Governor shall be President of the Senate and shall preside over the Senate, but shall have no vote unless the Senate is equally divided.

SEC. 14. *Other officers of the Senate.*

(1) *President Pro Tempore – succession to presidency.* The Senate shall elect from its membership a President Pro Tempore, who shall become President of the Senate upon the failure of the Lieutenant Governor-elect to qualify, or upon succession by the Lieutenant Governor to the office of Governor, or upon the death, resignation, or removal from office of the President of the Senate, and who shall serve until the expiration of his term of office as Senator.

(2) *President Pro Tempore – temporary succession.* During the physical or mental incapacity of the President of the Senate to perform the duties of his office, or during the absence of the President of the Senate, the President Pro Tempore shall preside over the Senate.

(3) *Other Officers.* The Senate shall elect its other officers.

SEC. 15. *Officers of the House of Representatives.* The House of Representatives shall elect its Speaker and other officers.

SEC. 16. *Compensation and allowances.* The members and officers of the General Assembly shall receive for their services the compensation and allowances prescribed by law. An increase in the compensation or allowances of members shall become effective at the beginning of the next regular session of the General Assembly following the session at which it was enacted.

SEC. 17. *Journals.* Each house shall keep a journal of its proceedings, which shall be printed and made public immediately after the adjournment of the General Assembly.

SEC. 18. *Protests.* Any member of either house may dissent from and protest against any act or resolve which he may think injurious to the public or to any individual, and have the reasons of his dissent entered on the journal.

SEC. 19. *Record votes.* Upon motion made in either house and seconded by one fifth of the members present, the yeas and nays upon any question shall be taken and entered upon the journal.

SEC. 20. *Powers of the General Assembly.* Each house shall be judge of the qualifications and elections of its own members, shall sit upon its own adjournment from day to day, and shall prepare bills to be enacted into laws. The two houses may jointly adjourn to any future day or other place. Either house may, of its own motion, adjourn for a period not in excess of three days.

SEC. 21. *Style of the acts.* The style of the acts shall be: "The General Assembly of North Carolina enacts:".

SEC. 22. *Action on bills.* All bills and resolutions of a legislative nature shall be read three times in each house before they become laws, and shall be signed by the presiding officers of both houses.

SEC. 23. *Revenue bills.* No law shall be enacted to raise money on the credit of the State, or to pledge the faith of the State directly or indirectly for the payment of any debt, or to impose any tax upon the people of the State, or to allow the counties, cities, or towns to do so, unless the bill for the purpose shall have been read three several times in each house of the General Assembly and passed three several readings, which readings shall have been on three different days, and shall have been agreed to by each house respectively, and unless the yeas and nays on the second and third readings of the bill shall have been entered on the journal.

SEC. 24. *Limitations on local, private, and special legislation.*

(1) *Prohibited subjects.* The General Assembly shall not enact any local, private, or special act or resolution:

- (a) Relating to health, sanitation, and the abatement of nuisances;
- (b) Changing the names of cities, towns, and townships;
- (c) Authorizing the laying out, opening, altering, maintaining, or discontinuing of highways, streets, or alleys;
- (d) Relating to ferries or bridges;
- (e) Relating to non-navigable streams;
- (f) Relating to cemeteries;
- (g) Relating to the pay of jurors;
- (h) Erecting new townships, or changing townships lines, or establishing or changing the lines of school districts;
- (i) Remitting fines, penalties, and forfeitures, or refunding moneys legally paid into the public treasury;
- (j) Regulating labor, trade, mining, or manufacturing;
- (k) Extending the time for the levy or collection of taxes or otherwise relieving any collector of taxes from the due performance of his official duties or his sureties from liability;
- (l) Giving effect to informal wills and deeds;
- (m) Granting a divorce or securing alimony in any individual case;
- (n) Altering the name of any person, or legitimating any person not born in lawful wedlock, or restoring to the rights of citizenship any person convicted of a felony.

(2) *Repeals.* Nor shall the General Assembly enact any such local, private, or special act by partial repeal of a general law; but the General Assembly may at any time repeal local, private, or special laws enacted by it.

(3) *Prohibited acts void.* Any local, private, or special act or resolution enacted in violation of the provisions of this Section shall be void.

(4) *General laws.* The General Assembly may enact general laws regulating the matters set out in this Section.

ARTICLE III

EXECUTIVE

SECTION 1, *Executive power.* The executive power of the State shall be vested in the Governor.

SEC. 2. *Governor and Lieutenant Governor: election, term, and qualifications.*

(1) *Election and term.* The Governor and Lieutenant Governor shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) *Qualifications.* No person shall be eligible for election to the office of Governor or Lieutenant Governor unless, at the time of his election, he shall have attained the age of 30 years and shall have been a citizen of the United States for five years and a resident of this State for two years immediately preceding his election. No person elected to the office of Governor or Lieutenant Governor shall be eligible for election to more than two consecutive terms of the same office.

SEC. 3. *Succession to office of Governor.*

(1) *Succession as Governor.* The Lieutenant Governor-elect shall become Governor upon the failure of the Governor-elect to qualify. The Lieutenant Governor shall become Governor upon the death, resignation, or removal from office of the Governor. The further order of succession to the office of Governor shall be prescribed by law. A successor shall serve for the remainder of the term of the Governor whom he succeeds and until a new Governor is elected and qualified.

(2) *Succession as Acting Governor.* During the absence of the Governor from the State, or during the physical or mental incapacity of the Governor to perform the duties of his office, the Lieutenant Governor shall be Acting Governor. The further order of succession as Acting Governor shall be prescribed by law.

(3) *Physical incapacity.* The Governor may, by a written statement filed with the Attorney General, declare that he is physically incapable of performing the duties of his office, and may thereafter in the same manner declare that he is physically capable of performing the duties of his office.

(4) *Mental incapacity.* The mental incapacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of two-thirds of all the members of each house of the General Assembly. Thereafter, the mental capacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of a majority of all the members of each house of the General Assembly. In all cases, the General Assembly shall give the Governor such notice as it may deem proper and shall allow him an opportunity to be heard before a joint session of the General Assembly before it takes final action. When the General Assembly is not in session, the Council of State, a majority of its

members concurring, may convene it in extra session for the purpose of proceeding under this paragraph.

(5) *Impeachment.* Removal of the Governor from office for any other cause shall be by impeachment.

SEC. 4. *Oath of office for Governor.* The Governor, before entering upon the duties of his office, shall, before any Justice of the Supreme Court, take an oath or affirmation that he will support the Constitution and laws of the United States and of the State of North Carolina, and that he will faithfully perform the duties pertaining to the office of Governor.

SEC. 5. *Duties of Governor.*

(1) *Residence.* The Governor shall reside at the seat of government of this State.

(2) *Information to General Assembly.* The Governor shall from time to time give the General Assembly information of the affairs of the State and recommend to their consideration such measures as he shall deem expedient.

(3) *Budget.* The Governor shall prepare and recommend to the General Assembly a comprehensive budget of the anticipated revenue and proposed expenditures of the State for the ensuing fiscal period. The budget as enacted by the General Assembly shall be administered by the Governor.

The total expenditures of the State for the fiscal period covered by the budget shall not exceed the total of receipts during that fiscal period and the surplus remaining in the State Treasury at the beginning of the period. To insure that the State does not incur a deficit for any fiscal period, the Governor shall continually survey the collection of the revenue and shall effect the necessary economies in State expenditures, after first making adequate provision for the prompt payment of the principal of and interest on bonds and notes of the State according to their terms, whenever he determines that receipts during the fiscal period, when added to any surplus remaining in the State Treasury at the beginning of the period, will not be sufficient to meet budgeted expenditures. This section shall not be construed to impair the power of the State to issue its bonds and notes within the limitations imposed in Article V of this Constitution, nor to impair the obligation of bonds and notes of the State now outstanding or issued hereafter.

(4) *Execution of laws.* The Governor shall take care that the laws be faithfully executed.

(5) *Commander in Chief.* The Governor shall be Commander in Chief of the military forces of the State except when they shall be called into the service of the United States.

(6) *Clemency.* The Governor may grant reprieves, commutations, and pardons, after conviction, for all offenses (except in cases of impeachment), upon such conditions as he may think proper, subject to regulations prescribed by law relative to the manner of applying for pardons. The terms reprieves, commutations, and pardons shall not include paroles.

(7) *Extra sessions.* The Governor may, on extraordinary occasions, by and with the advice of the Council of State, convene the General Assembly in extra session by his proclamation, stating therein the purpose or purposes for which they are thus convened.

(8) *Appointments.* The Governor shall nominate and by and with the advice and consent of a majority of the Senators appoint all officers whose appointments are not otherwise provided for.

(9) *Information.* The Governor may at any time require information in writing from the head of any administrative department or agency upon any subject relating to the duties of his office.

(10) *Administrative reorganization.* The General Assembly shall prescribe the functions, powers, and duties of the administrative departments and agencies of the State and may alter them from time to time, but the Governor may make such changes in the allocation of offices and agencies and in the allocation of those functions, powers, and duties as he considers necessary for efficient administration. If those changes affect existing law, they shall be set forth in executive orders, which shall be submitted to the General Assembly not later than the sixtieth calendar day of its session, and shall become effective and shall have the force of law upon adjournment sine die of the session, unless specifically disapproved by resolution of either house of the General Assembly or specifically modified by joint resolution of both houses of the General Assembly.

SEC. 6. *Duties of the Lieutenant Governor.* The Lieutenant Governor shall be President of the Senate, but shall have no vote unless the Senate is equally divided. He shall perform such additional duties as the General Assembly or the Governor may assign to him. He shall receive the compensation and allowances prescribed by law.

SEC. 7. *Other elective officers.*

(1) *Officers.* A Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an Attorney General, a Commissioner of Agriculture, a Commissioner of Labor, and a Commissioner of Insurance shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) *Duties.* Their respective duties shall be prescribed by law.

(3) *Vacancies.* If the office of any of these officers is vacated by death, resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified. Every such vacancy shall be filled by election at the first election for members of the General Assembly that occurs more than 30 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in this Section. When a vacancy occurs in the office of any of the officers named in this Section and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office.

(4) *Interim officers.* Upon the occurrence of a vacancy in the office of any one of these officers for any of the causes stated in the preceding paragraph, the Governor may appoint an interim officer to perform the duties of that office until a person is appointed or elected pursuant to this Section to fill the vacancy and is qualified.

(5) *Acting officers.* During the physical or mental incapacity of any one of these officers to perform the duties of his office, as determined pursuant to this Section, the duties of his office shall be performed by an acting officer who shall be appointed by the Governor.

(6) *Determination of incapacity.* The General Assembly shall by law prescribe with respect to those officers, other than the Governor, whose offices are created by this Article, procedures for determining the physical or mental incapacity of any officer to perform the duties of his office, and for determining whether an officer who has been temporarily incapacitated has sufficiently recovered his physical or mental capacity to perform the duties of his office. Removal of those officers from office for any other cause shall be by impeachment.

SEC. 8. *Council of State.* The Council of State shall consist of the officers whose offices are established by this Article.

SEC. 9. *Compensation and allowances.* The officers whose offices are established by this Article shall at stated periods receive the compensation and allowances prescribed by law, which shall not be diminished during the time for which they have been chosen.

SEC. 10. *Seal of State.* There shall be a seal of the State, which shall be kept by the Governor and used by him as occasion may require, and shall be called "The Great Seal of the State of North Carolina." All grants and commissions shall be issued in the name and by the authority of the State of North Carolina, sealed with "The Great Seal of the State of North Carolina," and signed by the Governor.

SEC. 11. *Administrative departments.* Not later than July 1, 1975, all administrative departments, agencies, and offices of the State and their respective functions, powers, and duties shall be allocated by law among and within not more than 25 principal administrative departments so as to group them as far as practicable according to major purposes. Regulatory, quasi-judicial, and temporary agencies may, but need not, be allocated within a principal department.

ARTICLE IV

JUDICIAL

SECTION 1. *Judicial power.* The judicial power of the State shall, except as provided in Section 3 of this Article, be vested in a Court for the Trial of Impeachments and in a General Court of Justice. The General Assembly shall have no power to deprive the judicial department of any power or jurisdiction that rightfully pertains to it as a co-ordinate department of the government, nor shall it establish or authorize any courts other than as permitted by this Article.

SEC. 2. *General Court of Justice.* The General Court of Justice shall constitute a unified judicial system for purposes of jurisdiction, operation, and administration, and shall consist of an Appellate Division, a Superior Court Division, and a District Court Division.

SEC. 3. *Judicial powers of administrative agencies.* The General Assembly may vest in administrative agencies established pursuant to law such judicial powers as may be reasonably necessary as an incident to the accomplishment of the purposes for which the agencies were created. Appeals from administrative agencies shall be to the General Court of Justice.

SEC. 4. *Court for the Trial of Impeachments.* The House of Representatives solely shall have the power of impeaching. The Court for the Trial of Impeachments shall be the Senate. When the Governor or Lieutenant Governor is impeached, the Chief Justice shall preside over the Court. A majority of the members shall be necessary to a quorum, and no person shall be convicted without the concurrence of two-thirds of the Senators present. Judgment upon conviction shall not extend beyond removal from and disqualification to hold office in this State, but the party shall be liable to indictment and punishment according to law.

SEC. 5. *Appellate division.* The Appellate Division of the General Court of Justice shall consist of the Supreme Court and the Court of Appeals.

SEC. 6. *Supreme Court.*

(1) *Membership.* The Supreme Court shall consist of a Chief Justice and six Associate Justices, but the General Assembly may increase the number of Associate Justices to not more than eight. In the event the Chief Justice is unable, on account of absence or temporary incapacity, to perform any of the duties placed upon him, the senior Associate Justice available may discharge those duties.

(2) *Sessions of the Supreme Court.* The sessions of the Supreme Court shall be held in the City of Raleigh unless otherwise provided by the General Assembly.

SEC. 7. *Court of Appeals.* The structure, organization, and composition of the Court of Appeals shall be determined by the General Assembly. The Court shall have not less than five members, and may be authorized to sit in divisions, or other than en banc. Sessions of the Court shall be held at such times and places as the General Assembly may prescribe.

SEC. 8. *Retirement of Justices and Judges.* The General Assembly shall provide by general law for the retirement of Justices and Judges of the General Court of Justice, and may provide for the temporary recall of any retired Justice or Judge to serve on the court from which he was retired. The General Assembly shall also prescribe maximum age limits for service as a Justice or Judge.

SEC. 9. *Superior Courts.*

(1) *Superior Court districts.* The General Assembly shall, from time to time, divide the State into a convenient number of Superior Court judicial districts and shall provide for the election of one or more Superior Court Judges for each district. Each regular Superior Court Judge shall reside in the district for which he is elected. The General Assembly may provide by general law for the selection or appointment of special or emergency Superior Court Judges not selected for a particular judicial district.

(2) *Open at all times; sessions for trial of cases.* The Superior Courts shall be open at all times for the transaction of all business except the trial of issues of fact requiring a jury. Regular trial sessions of the Superior Court shall be held at times fixed pursuant to a calendar of courts promulgated by the Supreme Court. At least two sessions for the trial of jury cases shall be held annually in each county.

(3) *Clerks.* A Clerk of the Superior Court for each county shall be elected for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. If the office of Clerk of the Superior

Court becomes vacant otherwise than by the expiration of the term, or if the people fail to elect, the senior regular resident Judge of the Superior Court serving the county shall appoint to fill the vacancy until an election can be regularly held.

SEC. 10. *District Courts.* The General Assembly shall, from time to time, divide the State into a convenient number of local court districts and shall prescribe where the District Courts shall sit, but a District Court must sit in at least one place in each county. District Judges shall be elected for each district for a term of four years, in a manner prescribed by law. When more than one District Judge is authorized and elected for a district, the Chief Justice of the Supreme Court shall designate one of the judges as Chief District Judge. Every District Judge shall reside in the district for which he is elected. For each county, the senior regular resident Judge of the Superior Court serving the county shall appoint for a term of two years, from nominations submitted by the Clerk of the Superior Court of the county, one or more Magistrates who shall be officers of the District Court. The number of District Judges and Magistrates shall, from time to time, be determined by the General Assembly. Vacancies in the office of District Judge shall be filled for the unexpired term in a manner prescribed by law. Vacancies in the office of Magistrate shall be filled for the unexpired term in the manner provided for original appointment to the office.

SEC. 11. *Assignment of Judges.* The Chief Justice of the Supreme Court, acting in accordance with rules of the Supreme Court, shall make assignments of Judges of the Superior Court and may transfer District Judges from one district to another for temporary or specialized duty. The principle of rotating Superior Court Judges among the various districts of a division is a salutary one and shall be observed. For this purpose the General Assembly may divide the State into a number of judicial divisions. Subject to the general supervision of the Chief Justice of the Supreme Court, assignment of District Judges within each local court district shall be made by the Chief District Judge.

SEC. 12. *Jurisdiction of the General Court of Justice.*

(1) *Supreme Court.* The Supreme Court shall have jurisdiction to review upon appeal any decision of the courts below, upon any matter of law or legal inference. The jurisdiction of the Supreme Court over "issues of fact" and "questions of fact" shall be the same exercised by it prior to the adoption of this Article, and the Court may issue any remedial writs necessary to give it general supervision and control over the proceedings of the other courts.

(2) *Court of Appeals.* The Court of Appeals shall have such appellate jurisdiction as the General Assembly may prescribe.

(3) *Superior Court.* Except as otherwise provided by the General Assembly, the Superior Court shall have original general jurisdiction throughout the State. The Clerks of the Superior Court shall have such jurisdiction and powers as the General Assembly shall prescribe by general law uniformly applicable in every county of the State.

(4) *District Courts; Magistrates.* The General Assembly shall, by general law uniformly applicable in every local court district of the State, prescribe the jurisdiction and powers of the District Courts and Magistrates.

(5) *Waiver.* The General Assembly may by general law provide that the jurisdictional limits may be waived in civil cases.

(6) *Appeals.* The General Assembly shall by general law provide a proper system of appeals. Appeals from Magistrates shall be heard de novo, with the right of trial by jury as defined in this Constitution and the laws of this State.

SEC. 13. *Forms of action; rules of procedure.*

(1) *Forms of Action.* There shall be in this State but one form of action for the enforcement or protection of private rights or the redress of private wrongs, which shall be denominated a civil action, and in which there shall be a right to have issues of fact tried before a jury. Every action prosecuted by the people of the State as a party against a person charged with a public offense, for the punishment thereof, shall be termed a criminal action.

(2) *Rules of procedure.* The Supreme Court shall have exclusive authority to make rules of procedure and practice for the Appellate Division. The General Assembly may make rules of procedure and practice for the Superior Court and District Court Divisions, and the General Assembly may delegate this authority to the Supreme Court. No rule of procedure or practice shall abridge substantive rights or abrogate or limit the right of trial by jury. If the General Assembly should delegate to the Supreme Court the rule-making power, the General Assembly may, nevertheless, alter, amend, or repeal any rule of procedure or practice adopted by the Supreme Court for the Superior Court or District Court Divisions.

SEC. 14. *Waiver of jury trial.* In all issues of fact joined in any court, the parties in any civil case may waive the right to have the issues determined by a jury, in which case the finding of the judge upon the facts shall have the force and effect of a verdict by a jury.

SEC. 15. *Administration.* The General Assembly shall provide for an administrative office of the courts to carry out the provisions of this Article.

SEC. 16. *Terms of office and election of Justices of the Supreme Court, Judges of the Court of Appeals, and Judges of the Superior Court.* Justices of the Supreme Court, Judges of the Court of Appeals, and regular Judges of the Superior Court shall be elected by the qualified voters and shall hold office for terms of eight years and until their successors are elected and qualified. Justices of the Supreme Court and Judges of the Court of Appeals shall be elected by the qualified voters of the State. Regular Judges of the Superior Court may be elected by the qualified voters of the State or by the voters of their respective districts, as the General Assembly may prescribe.

SEC. 17. *Removal of Judges, Magistrates and Clerks.*

(1) *Removal of Judges by the General Assembly.* Any Justice or Judge of the General Court of Justice may be removed from office for mental or physical incapacity by joint resolution of two-thirds of all the members of each house of the General Assembly. Any Justice or Judge against whom the General Assembly may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least 20 days before the day on which either house of the General Assembly shall act thereon. Removal from office by the General Assembly for any other cause shall be by impeachment.

(2) *Additional method of removal of Judges.* The General Assembly shall prescribe a procedure, in addition to impeachment and address set forth in this Section, for the

removal of a Justice or Judge of the General Court of Justice for mental or physical incapacity interfering with the performance of his duties which is, or is likely to become, permanent, and for the censure and removal of a Justice or Judge of the General Court of Justice for wilful misconduct in office, wilful and persistent failure to perform his duties, habitual intemperance, conviction of a crime involving moral turpitude, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

(3) *Removal of Magistrates.* The General Assembly shall provide by general law for the removal of Magistrates for misconduct or mental or physical incapacity.

(4) *Removal of Clerks.* Any Clerk of the Superior Court may be removed from office for misconduct or mental or physical incapacity by the senior regular resident Superior Court Judge serving the county. Any Clerk against whom proceedings are instituted shall receive written notice of the charges against him at least ten days before the hearing upon the charges. Any Clerk so removed from office shall be entitled to an appeal as provided by law.

SEC. 18. *District Attorney and prosecutorial districts.*

(1) *District Attorneys.* The General Assembly shall, from time to time, divide the State into a convenient number of prosecutorial districts, for each of which a District Attorney shall be chosen for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. The District Attorney shall advise the officers of justice in his district, be responsible for the prosecution on behalf of the State of all criminal actions in the Superior Courts of his district, perform such duties related to appeals therefrom as the Attorney General may require, and perform such other duties as the General Assembly may prescribe.

(2) *Prosecution in District Court Division.* Criminal actions in the District Court Division shall be prosecuted in such manner as the General Assembly may prescribe by general law uniformly applicable in every local court district of the State.

SEC. 19. *Vacancies.* Unless otherwise provided in this Article, all vacancies occurring in the offices provided for by this Article shall be filled by appointment of the Governor, and the appointees shall hold their places until the next election for members of the General Assembly that is held more than 30 days after the vacancy occurs, when elections shall be held to fill the offices. When the unexpired term of any of the offices named in this Article of the Constitution in which a vacancy has occurred, and in which it is herein provided that the Governor shall fill the vacancy, expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill that vacancy for the unexpired term of the office. If any person elected or appointed to any of these offices shall fail to qualify, the office shall be appointed to, held, and filled as provided in case of vacancies occurring therein. All incumbents of these offices shall hold until their successors are qualified.

SEC. 20. *Revenues and expenses of the judicial department.* The General Assembly shall provide for the establishment of a schedule of court fees and costs which shall be uniform throughout the State within each division of the General Court of Justice. The operating expenses of the judicial department, other than compensation to process servers and other locally paid non-judicial officers, shall be paid from State funds.

SEC. 21. *Fees, salaries, and emoluments.* The General Assembly shall prescribe and regulate the fees, salaries, and emoluments of all officers provided for in this Article, but the salaries of Judges shall not be diminished during their continuance in office. In no case shall the compensation of any Judge or Magistrate be dependent upon his decision or upon the collection of costs.

ARTICLE V

FINANCE

SECTION 1. *No capitation tax to be levied.* No poll or capitation tax shall be levied by the General Assembly or by any county, city or town, or other taxing unit.

SEC. 2. *State and local taxation.*

(1) *Power of taxation.* The power of taxation shall be exercised in a just and equitable manner, for public purposes only, and shall never be surrendered, suspended, or contracted away.

(2) *Classification.* Only the General Assembly shall have the power to classify property for taxation, which power shall be exercised only on a State-wide basis and shall not be delegated. No class of property shall be taxed except by uniform rule, and every classification shall be made by general law uniformly applicable in every county, city and town, and other unit of local government.

(3) *Exemptions.* Property belonging to the State, counties, and municipal corporations shall be exempt from taxation. The General Assembly may exempt cemeteries and property held for educational, scientific, literary, cultural, charitable, or religious purposes, and, to a value not exceeding \$300, any personal property. The General Assembly may exempt from taxation not exceeding \$1,000 in value of property held and used as the place of residence of the owner. Every exemption shall be on a State-wide basis and shall be made by general law uniformly applicable in every county, city and town, and other unit of local government. No taxing authority other than the General Assembly may grant exemptions, and the General Assembly shall not delegate the powers accorded to it by this subsection.

(4) *Special tax areas.* Subject to the limitations imposed by Section 4, the General Assembly may enact general laws authorizing the governing body of any county, city, or town to define territorial areas and to levy taxes within those areas, in addition to those levied throughout the county, city, or town, in order to finance, provide, or maintain services, facilities, and functions in addition to or to a greater extent than those financed, provided, or maintained for the entire county, city, or town.

(5) *Purposes of property tax.* The General Assembly shall not authorize any county, city or town, special district, or other unit of local government to levy taxes on property, except for purposes authorized by general law uniformly applicable throughout the State, unless the tax is approved by a majority of the qualified voters of the unit who vote thereon.

(6) *Income tax.* The rate of tax on incomes shall not in any case exceed ten per cent, and there shall be allowed personal exemptions and deductions so that only net incomes are taxed.

(7) *Contracts.* The General Assembly may enact laws whereby the State, any county, city or town, and any other public corporation may contract with and appropriate money to any person, association, or corporation for the accomplishment of public purposes only.

SEC. 3. *Limitations upon the increase of State debt.*

(1) *Authorized purposes; two-thirds limitation.* The General Assembly shall have no power to contract debts secured by a pledge of the faith and credit of the State, unless approved by a majority of the qualified voters of the State who vote thereon, except for the following purposes:

- (a) to fund or refund a valid existing debt;
- (b) to supply an unforeseen deficiency in the revenue;
- (c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;
- (d) to suppress riots or insurrections, or to repel invasions;
- (e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;
- (f) for any other lawful purpose, to the extent of two-thirds of the amount by which the State's outstanding indebtedness shall have been reduced during the next preceding biennium.

(2) *Gift or loan of credit regulated.* The General Assembly shall have no power to give or lend the credit of the State in aid of any person, association, or corporation, except a corporation in which the State has a controlling interest, unless the subject is submitted to a direct vote of the people of the State, and is approved by a majority of the qualified voters who vote thereon.

(3) *Definitions.* A debt is incurred within the meaning of this Section when the State borrows money. A pledge of the faith and credit within the meaning of this Section is a pledge of the taxing power. A loan of credit within the meaning of this Section occurs when the State exchanges its obligations with or in any way guarantees the debts of an individual, association or private corporation.

(4) *Certain debts barred.* The General Assembly shall never assume or pay any debt or obligation, express or implied, incurred in aid of insurrection against the United States. Neither shall the General Assembly assume or pay any debt or bond incurred or issued by authority of the Convention of 1868, the special session of the General Assembly of 1868, or the General Assemblies of 1868-69 and 1869-70, unless the subject is submitted to the people of the State and is approved by a majority of all the qualified voters at a referendum held for that sole purpose.

(5) *Outstanding debt.* Except as provided in subsection (4), nothing in this Section shall be construed to invalidate or impair the obligation of any bond, note, or other evidence of indebtedness outstanding or authorized for issue as of July 1, 1973.

SEC. 4. *Limitations upon the increase of local government debt.*

(1) *Regulation of borrowing and debt.* The General Assembly shall enact general laws relating to the borrowing of money secured by a pledge of the faith and credit and the contracting of other debts by counties, cities and towns, special districts, and other units, authorities, and agencies of local government.

(2) *Authorized purposes; two-thirds limitation.* The General Assembly shall have no power to authorize any county, city or town, special district, or other unit of local government to contract debts secured by a pledge of its faith and credit unless approved by a majority of the qualified voters of the unit who vote thereon, except for the following purposes:

- (a) to fund or refund a valid existing debt;
- (b) to supply an unforeseen deficiency in the revenue;
- (c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;
- (d) to suppress riots or insurrections;
- (e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;
- (f) for purpose authorized by general laws uniformly applicable throughout the State, to the extent of two-thirds of the amount by which the unit's outstanding indebtedness shall have been reduced during the next preceding fiscal year.

(3) *Gift or loan of credit regulated.* No county, city or town, special district, or other unit of local government shall give or lend its credit in aid of any person, association, or corporation, except for public purposes as authorized by general law, and unless approved by a majority of the qualified voters of the unit who vote thereon.

(4) *Certain debts barred.* No county, city or town, or other unit of local government shall assume or pay any debt or the interest thereon contracted directly or indirectly in aid or support of rebellion or insurrection against the United States.

(5) *Definitions.* A debt is incurred within the meaning of this Section when a county, city or town, special district, or other unit, authority, or agency of local government borrows money. A pledge of faith and credit within the meaning of this Section is a pledge of the taxing power. A loan of credit within the meaning of this Section occurs when a county, city or town, special district, or other unit, authority, or agency of local government exchanges its obligations with or in any way guarantees the debts of an individual, association, or private corporation.

(6) *Outstanding debt.* Except as provided in subsection (4), nothing in this Section shall be construed to invalidate or impair the obligation of any bond, note, or other evidence of indebtedness outstanding or authorized for issue as of July 1, 1973.

SEC. 5. *Acts levying taxes to state objects.* Every act of the General Assembly levying a tax shall state the special object to which it is to be applied, and it shall be applied to no other purpose.

SEC. 6. *Inviolability of sinking funds and retirement funds.*

(1) *Sinking funds.* The General Assembly shall not use or authorize to be used any part of the amount of any sinking fund for any purpose other than the retirement of the bonds for which the sinking fund has been created, except that these funds may be invested as authorized by law.

(2) *Retirement funds.* Neither the General Assembly nor any public officer, employee, or agency shall use or authorize to be used any part of the funds of the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System for any purpose other than retirement system benefits and purposes, administrative expenses, and refunds; except that retirement system funds may be invested as authorized by law, subject to the investment limitation that the funds of the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System shall not be applied, diverted, loaned to, or used by the State, any State agency, State officer, public officer, or public employee.

SEC. 7. *Drawing public money.*

(1) *State treasury.* No money shall be drawn from the State Treasury but in consequence of appropriations made by law, and an accurate account of the receipts and expenditures of State funds shall be published annually.

(2) *Local treasury.* No money shall be drawn from the treasury of any county, city or town, or other unit of local government except by authority of law.

SEC. 8. *Health care facilities.* Notwithstanding any other provisions of this Constitution, the General Assembly may enact general laws to authorize the State, counties, cities or towns, and other State and local governmental entities to issue revenue bonds to finance or refinance for any such governmental entity or any nonprofit private corporation, regardless of any church or religious relationship, the cost of acquiring, constructing, and financing health care facility projects to be operated to serve and benefit the public; provided, no cost incurred earlier than two years prior to the effective date of this section shall be refinanced. Such bonds shall be payable from the revenues, gross or net, of any such projects and any other health care facilities of any such governmental entity or nonprofit private corporation pledged therefor; shall not be secured by a pledge of the full faith and credit, or deemed to create an indebtedness requiring voter approval of any governmental entity; and may be secured by an agreement which may provide for the conveyance of title of, with or without consideration, any such project or facilities to the governmental entity or nonprofit private corporation. The power of eminent domain shall not be used pursuant hereto for nonprofit private corporations.

SEC. 9. *Capital projects for industry.* Notwithstanding any other provision of this Constitution, the General Assembly may enact general laws to authorize counties to create authorities to issue revenue bonds to finance, but not to refinance, the cost of capital projects consisting of industrial, manufacturing and pollution control facilities for industry and pollution control facilities for public utilities, and to refund such bonds.

In no event shall such revenue bonds be secured by or payable from any public moneys whatsoever, but such revenue bonds shall be secured by and payable only from revenues or property derived from private parties. All such capital projects and

all transactions therefor shall be subject to taxation to the extent such projects and transactions would be subject to taxation if no public body were involved therewith; provided, however, that the General Assembly may provide that the interest on such revenue bonds shall be exempt from income taxes within the State.

The power of eminent domain shall not be exercised to provide any property for any such capital project.

Sec. 10. *Joint ownership of generation and transmission facilities.* In addition to other powers conferred upon them by law, municipalities owning or operating facilities for the generation, transmission or distribution of electric power and energy and joint agencies formed by such municipalities for the purpose of owning or operating facilities for the generation and transmission of electric power and energy (each, respectively, "a unit of municipal government") may jointly or severally own, operate and maintain works, plants and facilities, within or without the State, for the generation and transmission of electric power and energy, or both, with any person, firm, association or corporation, public or private, engaged in the generation, transmission or distribution of electric power and energy for resale (each, respectively, "a co-owner") within this State or any state contiguous to this State, and may enter into and carry out agreements with respect to such jointly owned facilities. For the purpose of financing its share of the cost of any such jointly owned electric generation or transmission facilities, a unit of municipal government may issue its revenue bonds in the manner prescribed by the General Assembly, payable as to both principal and interest solely from and secured by a lien and charge on all or any part of the revenue derived, or to be derived, by such unit of municipal government from the ownership and operation of its electric facilities; provided, however, that no unit of municipal government shall be liable, either jointly or severally, for any acts, omissions or obligations of any co-owner, nor shall any money or property of any unit of municipal government be credited or otherwise applied to the account of any co-owner or be charged with any debt, lien or mortgage as a result of any debt or obligation of any co-owner.

ARTICLE VI

SUFFRAGE AND ELIGIBILITY TO OFFICE

SECTION 1. *Who may vote.* Every person born in the United States and every person who has been naturalized, 18 years of age, and possessing the qualifications set out in this article, shall be entitled to vote at any election by the people of the State, except as herein otherwise provided.

SEC. 2. *Qualifications of voter.*

(1) *Residence period for State elections.* Any person who has resided in the State of North Carolina for one year and in the precinct, ward, or other election district for 30 days next preceding an election, and possesses the other qualifications set out in this Article, shall be entitled to vote at any election held in this State. Removal from one precinct, ward, or other election district to another in this State shall not operate to deprive any person of the right to vote in the precinct, ward, or other election district from which that person has removed until 30 days after the removal.

(2) *Residence period for presidential elections.* The General Assembly may reduce the time of residence for persons voting in presidential elections. A person made eligible by reason of a reduction in time of residence shall possess the other qualifications

set out in this Article, shall only be entitled to vote for President and Vice President of the United States or for electors for President and Vice President, and shall not thereby become eligible to hold office in this State.

(3) *Disqualification of felon.* No person adjudged guilty of a felony against this State or the United States, or adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, shall be permitted to vote unless that person shall be first restored to the rights of citizenship in the manner prescribed by law.

SEC. 3. *Registration.* Every person offering to vote shall be at the time legally registered as a voter as herein prescribed and in the manner provided by law. The General Assembly shall enact general laws governing the registration of voters.

SEC. 4. *Qualification for registration.* Every person presenting himself for registration shall be able to read and write any section of the Constitution in the English language.

SEC. 5. *Elections by people and General Assembly.* All elections by the people shall be by ballot, and all elections by the General Assembly shall be viva voce. A contested election for any office established by Article III of this Constitution shall be determined by joint ballot of both houses of the General Assembly in the manner prescribed by law.

SEC. 6. *Eligibility to elective office.* Every qualified voter in North Carolina who is 21 years of age, except as in this Constitution disqualified, shall be eligible for election by the people to office.

SEC. 7. *Oath.* Before entering upon the duties of an office, a person elected or appointed to the office shall take and subscribe the following oath:

"I,, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as, so help me God."

SEC. 8. *Disqualifications for office.* The following persons shall be disqualified for office:

First, any person who shall deny the being of Almighty God.

Second, with respect to any office that is filled by election by the people, any person who is not qualified to vote in an election for that office.

Third, any person who has been adjudged guilty of treason or any other felony against this State or the United States, or any person who has been adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, or any person who has been adjudged guilty of corruption or malpractice in any office, or any person who has been removed by impeachment from any office, and who has not been restored to the rights of citizenship in the manner prescribed by law.

SEC. 9. *Dual office holding.*

(1) *Prohibitions.* It is salutary that the responsibilities of self-government be widely shared among the citizens of the State and that the potential abuse of authority inherent in the holding of multiple offices by an individual be avoided. Therefore, no person who holds any office or place of trust or profit under the United States or any department thereof, or under any other state or government, shall be eligible to hold any office in this State that is filled by election by the people. No person shall hold concurrently any two offices in this State that are filled by election of the people. No person shall hold concurrently any two or more appointive offices or places of trust or profit, or any combination of elective and appointive offices or places of trust or profit, except as the General Assembly shall provide by general law.

(2) *Exceptions.* The provisions of this Section shall not prohibit any officer of the military forces of the State or of the United States not on active duty for an extensive period of time, any notary public, or any delegate to a Convention of the People from holding concurrently another office or place of trust or profit under this State or the United States or any department thereof.

SEC. 10. *Continuation in office.* In the absence of any contrary provision, all officers in this State, whether appointed or elected, shall hold their positions until other appointments are made or, if the offices are elective, until their successors are chosen and qualified.

ARTICLE VII

LOCAL GOVERNMENT

SECTION 1. *General Assembly to provide for local government.* The General Assembly shall provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable.

The General Assembly shall not incorporate as a city or town, nor shall it authorize to be incorporated as a city or town, any territory lying within one mile of the corporate limits of any other city or town having a population of 5,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within three miles of the corporate limits of any other city or town having a population of 10,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within four miles of the corporate limits of any other city or town having a population of 25,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within five miles of the corporate limits of any other city or town having a population of 50,000 or more according to the most recent decennial census of population taken by order of Congress. Notwithstanding the foregoing limitations, the General Assembly may incorporate a city or town by an act adopted by vote of three-fifths of all the members of each house.

SEC. 2. *Sheriffs.* In each county a Sheriff shall be elected by the qualified voters thereof at the same time and places as members of the General Assembly are elected and shall hold his office for a period of four years, subject to removal for cause as provided by law.

SEC. 3. *Merged or consolidated counties.* Any unit of local government formed by the merger or consolidation of a county or counties and the cities and towns therein shall be deemed both a county and a city for the purposes of this Constitution, and may exercise any authority conferred by law on counties, or on cities and towns, or both, as the General Assembly may provide.

ARTICLE VIII

CORPORATIONS

SECTION 1. *Corporate charters.* No corporation shall be created, nor shall its charter be extended, altered, or amended by special act, except corporations for charitable, educational, penal, or reformatory purposes that are to be and remain under the patronage and control of the State; but the General Assembly shall provide by general laws for the chartering, organization, and powers of all corporations, and for the amending, extending, and forfeiture of all charters, except those above permitted by special act. All such general acts may be altered from time to time or repealed. The General Assembly may at any time by special act repeal the charter of any corporation.

SEC. 2. *Corporations defined.* The term "corporation" as used in this Section shall be construed to include all associations and joint-stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships. All corporations shall have the right to sue and shall be subject to be sued in all courts, in like cases as natural persons.

ARTICLE IX

EDUCATION

SECTION 1. *Education encouraged.* Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools, libraries, and the means of education shall forever be encouraged.

SEC. 2. *Uniform system of schools.*

(1) *General and uniform system; term.* The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools, which shall be maintained at least nine months in every year, and wherein equal opportunities shall be provided for all students.

(2) *Local responsibility.* The General Assembly may assign to units of local government such responsibility for the financial support of the free public schools as it may deem appropriate. The governing boards of units of local government with financial responsibility for public education may use local revenues to add to or supplement any public school or post-secondary school program.

SEC. 3. *School attendance.* The General Assembly shall provide that every child of appropriate age and of sufficient mental and physical ability shall attend the public schools, unless educated by other means.

SEC. 4. *State Board of Education.*

(1) *Board.* The State Board of Education shall consist of the Lieutenant Governor, the Treasurer, and eleven members appointed by the Governor, subject to confirma-

tion by the General Assembly in joint session. The General Assembly shall divide the State into eight educational districts. Of the appointive members of the Board, one shall be appointed from each of the eight educational districts and three shall be appointed from the State at large. Appointments shall be for overlapping terms of eight years. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

(2) *Superintendent of Public Instruction.* The Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education.

SEC. 5. *Powers and duties of Board.* The State Board of Education shall supervise and administer the free public school system and the educational funds provided for its support, except the funds mentioned in Section 7 of this Article, and shall make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly.

SEC. 6. *State school fund.* The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United States; all moneys, stocks, bonds, and other property belonging to the State for purposes of public education; the net proceeds of all sales of the swamp lands belonging to the State; and all other grants, gifts, and devises that have been or hereafter may be made to the State, and not otherwise appropriated by the State or by the terms of the grant, gift, or devise, shall be paid into the State Treasury and, together with so much of the revenue of the State as may be set apart for that purpose, shall be faithfully appropriated and used exclusively for establishing and maintaining a uniform system of free public schools.

SEC. 7. *County school fund.* All moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools.

SEC. 8. *Higher education.* The General Assembly shall maintain a public system of higher education, comprising The University of North Carolina and such other institutions of higher education as the General Assembly may deem wise. The General Assembly shall provide for the selection of trustees of The University of North Carolina and of the other institutions of higher education, in whom shall be vested all the privileges, rights, franchises, and endowments heretofore granted to or conferred upon the trustees of these institutions. The General Assembly may enact laws necessary and expedient for the maintenance and management of The University of North Carolina and the other public institutions of higher education.

SEC. 9. *Benefits of public institutions of higher education.* The General Assembly shall provide that the benefits of The University of North Carolina and other public institutions of higher education, as far as practicable, be extended to the people of the State free of expense.

SEC. 10. *Escheats.*

(1) *Escheats prior to July 1, 1971.* All property that prior to July 1, 1971, accrued to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be appropriated to the use of The University of North Carolina.

(2) *Escheats after June 30, 1971.* All property that, after June 30, 1971, shall accrue to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be used to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. The method, amount, and type of distribution shall be prescribed by law.

ARTICLE X

HOMESTEADS AND EXEMPTIONS

SECTION 1. *Personal property exemptions.* The personal property of any resident of this State, to a value fixed by the General Assembly but not less than \$500, to be selected by the resident, is exempted from sale under execution or other final process of any court, issued for the collection of any debt.

SEC. 2. *Homestead exemptions.*

(1) *Exemption from sale; exceptions.* Every homestead and the dwellings and buildings used therewith, to a value fixed by the General Assembly but not less than \$1,000, to be selected by the owner thereof, or in lieu thereof, at the option of the owner, any lot in a city or town with the dwellings and buildings used thereon, and to the same value, owned and occupied by a resident of the State, shall be exempt from sale under execution or other final process obtained on any debt. But no property shall be exempt from sale for taxes, or for payment of obligations contracted for its purchase.

(2) *Exemption for benefit of children.* The homestead, after the death of the owner thereof, shall be exempt from the payment of any debt during the minority of the owner's children, or any of them.

(3) *Exemption for benefit of surviving spouse.* If the owner of a homestead dies, leaving a surviving spouse but no minor children, the homestead shall be exempt from the debts of the owner, and the rents and profits thereof shall inure to the benefit of the surviving spouse until he or she remarries, unless the surviving spouse is the owner of a separate homestead.

(4) *Conveyance of homestead.* Nothing contained in this Article shall operate to prevent the owner of a homestead from disposing of it by deed, but no deed made by a married owner of a homestead shall be valid without the signature and acknowledgement of his or her spouse.

SEC. 3. *Mechanics' and laborers' liens.* The General Assembly shall provide by proper legislation for giving to mechanics and laborers an adequate lien on the subject-matter of their labor. The provisions of Sections 1 and 2 of this Article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming the exemption or a mechanic's lien for work done on the premises.

SEC. 4. *Property of married women secured to them.* The real and personal property of any female in this State acquired before marriage, and all property, real and personal, to which she may, after marriage, become in any manner entitled, shall be and remain the sole and separate estate and property of such female, and shall not be liable for any debts, obligations, or engagements of her husband, and may be devised

and bequeathed and conveyed by her, subject to such regulations and limitations as the General Assembly may prescribe. Every married woman may exercise powers of attorney conferred upon her by her husband, including the power to execute and acknowledge deeds to property owned by herself and her husband or by her husband.

Sec. 5. *Insurance.* A person may insure his or her own life for the sole use and benefit of his or her spouse or children or both, and upon his or her death the proceeds from the insurance shall be paid to or for the benefit of the spouse or children or both, or to a guardian, free from all claims of the representatives or creditors of the insured or his or her estate. Any insurance policy which insures the life of a person for the sole use and benefit of that person's spouse or children or both shall not be subject to the claims of creditors of the insured during his or her lifetime, whether or not the policy reserves to the insured during his or her lifetime any or all rights provided for by the policy and whether or not the policy proceeds are payable to the estate of the insured in the event the beneficiary or beneficiaries predecease the insured.

ARTICLE XI

PUNISHMENTS, CORRECTIONS, AND CHARITIES

SECTION 1. *Punishments.* The following punishments only shall be known to the laws of this State: death, imprisonment, fines, removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under this State.

SEC. 2. *Death punishment.* The object of punishments being not only to satisfy justice, but also to reform the offender and thus prevent crime, murder, arson, burglary, and rape, and these only, may be punishable with death, if the General Assembly shall so enact.

SEC. 3. *Charitable and correctional institutions and agencies.* Such charitable, benevolent, penal, and correctional institutions and agencies as the needs of humanity and the public good may require shall be established and operated by the State under such organization and in such manner as the General Assembly may prescribe.

SEC. 4. *Welfare policy; board of public welfare.* Beneficent provision for the poor, the unfortunate, and the orphan is one of the first duties of a civilized and a Christian state. Therefore the General Assembly shall provide for and define the duties of a board of public welfare.

ARTICLE XII

MILITARY FORCES

SECTION 1. *Governor is Commander in Chief.* The Governor shall be Commander in Chief of the military forces of the State and may call out those forces to execute the law, suppress riots and insurrections, and repel invasion.

ARTICLE XIII

CONVENTIONS; CONSTITUTIONAL AMENDMENT AND REVISION

SECTION 1. *Convention of the People.* No Convention of the People of this State shall ever be called unless by the concurrence of two-thirds of all the members of

each house of the General Assembly, and unless the proposition "Convention or No Convention" is first submitted to the qualified voters of the State at the time and in the manner prescribed by the General Assembly. If a majority of the votes cast upon the proposition are in favor of a Convention, it shall assemble on the day prescribed by the General Assembly. The General Assembly shall, in the act submitting the convention proposition, propose limitations upon the authority of the Convention; and if a majority of the votes cast upon the proposition are in favor of a Convention, those limitations shall become binding upon the Convention. Delegates to the Convention shall be elected by the qualified voters at the time and in the manner prescribed in the act of submission. The Convention shall consist of a number of delegates equal to the membership of the House of Representatives of the General Assembly that submits the convention proposition and the delegates shall be apportioned as is the House of Representatives. A Convention shall adopt no ordinance not necessary to the purpose for which the Convention has been called.

SEC. 2. *Power to revise or amend Constitution reserved to people.* The people of this State reserve the power to amend this Constitution and to adopt a new or revised Constitution. This power may be exercised by either of the methods set out hereinafter in this Article, but in no other way.

SEC. 3. *Revision or amendment by Convention of the People.* A Convention of the People of this State may be called pursuant to Section 1 of this Article to propose a new or revised Constitution or to propose amendments to this Constitution. Every new or revised Constitution and every constitutional amendment adopted by a Convention shall be submitted to the qualified voters of the State at the time and in the manner prescribed by the Convention. If a majority of the votes cast thereon are in favor of ratification of the new or revised Constitution or the constitutional amendment or amendments, it or they shall become effective January first next after ratification by the qualified voters unless a different effective date is prescribed by the Convention.

SEC. 4. *Revision or amendment by legislative initiation.* A proposal of a new or revised Constitution or an amendment or amendments to this Constitution may be initiated by the General Assembly, but only if three-fifths of all the members of each house shall adopt an act submitting the proposal to the qualified voters of the State for their ratification or rejection. The proposal shall be submitted at the time and in the manner prescribed by the General Assembly. If a majority of the votes cast thereon are in favor of the proposed new or revised Constitution or constitutional amendment or amendments, it or they shall become effective January first next after ratification by the voters unless a different effective date is prescribed in the act submitting the proposal or proposals to the qualified voters.

ARTICLE XIV

MISCELLANEOUS

SECTION 1. *Seat of government.* The permanent seat of government of this State shall be at the City of Raleigh.

SEC. 2. *State boundaries.* The limits and boundaries of the State shall be and remain as they now are.

SEC. 3. *General laws defined.* Whenever the General Assembly is directed or authorized by this Constitution to enact general laws, or general laws uniformly applica-

ble throughout the State, or general laws uniformly applicable in every county, city and town, and other unit of local government, or in every local court district, no special or local act shall be enacted concerning the subject matter directed or authorized to be accomplished by general or uniformly applicable laws, and every amendment or repeal of any law relating to such subject matter shall also be general and uniform in its effect throughout the State. General laws may be enacted for classes defined by population or other criteria. General laws uniformly applicable throughout the State shall be made applicable without classification or exception in every unit of local government of like kind, such as every county, or every city and town, but need not be made applicable in every unit of local government in the State. General laws uniformly applicable in every county, city and town, and other unit of local government, or in every local court district, shall be made applicable without classification or exception in every unit of local government, or in every local court district, as the case may be. The General Assembly may at any time repeal any special, local, or private act.

SEC. 4. *Continuity of laws; protection of office holders.* The laws of North Carolina not in conflict with this Constitution shall continue in force until lawfully altered. Except as otherwise specifically provided, the adoption of this Constitution shall not have the effect of vacating any office or term of office now filled or held by virtue of any election or appointment made under the prior Constitution of North Carolina and the laws of the State enacted pursuant thereto.

SEC. 5. *Conservation of natural resources.* It shall be the policy of this State to conserve and protect its lands and waters for the benefit of all its citizenry, and to this end it shall be a proper function of the State of North Carolina and its political subdivisions to acquire and preserve park, recreational, and scenic areas, to control and limit the pollution of our air and water, to control excessive noise, and in every other appropriate way to preserve as a part of the common heritage of this State its forests, wetlands, estuaries, beaches, historical sites, openlands, and places of beauty.

To accomplish the aforementioned public purposes, the State and its counties, cities and towns, and other units of local government may acquire by purchase or gift properties or interests in properties which shall, upon their special dedication to and acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly for those public purposes, constitute part of the "State Nature and Historic Preserve", and which shall not be used for other purposes except as authorized by the law enacted by a vote of three-fifths of the members of each house of the General Assembly. The General Assembly shall prescribe by general law the conditions and procedures under which such properties or interests therein shall be dedicated for the aforementioned public purposes.

**SESSION LAWS
OF THE
STATE OF NORTH CAROLINA**

**1977 GENERAL ASSEMBLY
SECOND SESSION 1978**

H. B. 1489

CHAPTER 1132

**AN ACT TO INCREASE CERTAIN FEES CHARGED BY THE REGISTERS
OF DEEDS.**

The General Assembly of North Carolina enacts:

Section 1. The following subdivisions of G.S. 161-10(a), as they appear in the 1976 Replacement Volume 3D of the North Carolina General Statutes, are amended as indicated:

Subdivision (1). On line 3, delete "two dollars (\$2.00)" and insert "three dollars (\$3.00)".

Subdivision (2). On line 1, delete "seven dollars (\$7.00)" and insert "ten dollars (\$10.00)".

Subdivision (3). On lines 1 and 2, delete "seven dollars (\$7.00)" and insert "ten dollars (\$10.00)", and on line 2, delete "two dollars (\$2.00)" and insert "three dollars (\$3.00)".

Subdivision (16). On line 2, delete "fifty cents (50¢)" and insert "one dollar (\$1.00)".

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 14th day of June, 1978.

H. B. 682

CHAPTER 1133

**AN ACT TO PROVIDE A REFERENDUM IN COLUMBUS COUNTY TO
DETERMINE WHETHER THE COUNTY POLICE FORCE AND BOARD
OF PUBLIC SAFETY SHALL BE RETAINED.**

The General Assembly of North Carolina enacts:

Section 1. The County Board of Elections of Columbus County shall hold a special election on a date to be determined by the county board of commissioners for the purpose of submitting to the voters of the county the question of whether the Columbus County Public Safety Commission and the county police force, as established by Chapter 101, Session Laws of 1973, as

CHAPTER 1133 Session Laws—1977

amended by Chapter 299, Session Laws of 1973, and Chapter 311, Session Laws of 1973, and Chapter 920, Session Laws of 1973, Chapter 460, Session Laws of 1975, and Chapter 69, Session Laws of 1977, shall be abolished or retained.

The board of elections shall give notice of the election as required by law, and the special election shall be held and conducted in accordance with the general election laws of North Carolina.

Sec. 2. The ballot shall be in the following form:

“FOR retaining the Columbus County Public Safety Commission and county police force

AGAINST retaining the Columbus County Public Safety Commission and county police force.”

If a majority of the votes cast are for retaining the Columbus County Public Safety Commission and county police force, then Chapter 101, Session Laws of 1973, as amended by Chapter 299, Session Laws of 1973, Chapter 311, Session Laws of 1973, and Chapter 920, Session Laws of 1973, Chapter 460, Session Laws of 1975, and Chapter 69, Session Laws of 1977, shall continue in full force and effect.

If a majority of the votes cast are against retaining the Columbus County Public Safety Commission and county police force, then Chapter 101, Session Laws of 1973, Chapter 299, Session Laws of 1973, and Chapter 311, Session Laws of 1973, and Chapter 920, Session Laws of 1973, Chapter 460, Session Laws of 1975, and Chapter 69, Session Laws of 1977, shall be repealed, effective on the date of the taking of the oath of office of the sheriff next elected following the certification of the results of the special election by the county board of elections.

Sec. 3. In the event the vote in the special election is against retaining the Columbus County Public Safety Commission and county police force, then the commission shall transfer all of its property, motor vehicles, and equipment to the sheriff of Columbus County on the date of the taking of the oath of office of the sheriff next elected following the certification of the results of the special election by the county board of elections.

Sec. 4. If the Columbus County Public Safety Commission and county police force are abolished under this act, then Chapter 300, Session Laws of 1973, shall be repealed on the date of the taking of the oath of office of the sheriff next elected following the certification of the results of the special election by the county board of elections, and Chapter 72, Session Laws of 1971, shall be in full force and effect.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1978.

H. B. 802

CHAPTER 1134

AN ACT REPEALING THE CRIMINAL OFFENSE OF PUBLIC DRUNKENNESS AND GRANTING AUTHORITY TO ASSIST PERSONS WHO BECOME INTOXICATED IN PUBLIC.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes is amended by adding the following new Article:

“ARTICLE 59.

“Public Intoxication.

“§ 14-440. *Definitions.*—As used in this Article:

(1) ‘alcoholism’ is the state of a person who habitually lacks self-control as to the use of intoxicating liquor, or uses intoxicating liquor to the extent that his health is substantially impaired or endangered or his social or economic function is substantially disrupted; and

(2) ‘intoxicated’ is the condition of a person whose mental or physical functioning is presently substantially impaired as a result of the use of alcohol; and

(3) a ‘public place’ is a place which is open to the public, whether it is publicly or privately owned.

“§ 14-441. *Intoxicated and disruptive in public.*—(a) It shall be unlawful for any person in a public place to be intoxicated and disruptive in any of the following ways:

(1) blocking or otherwise interfering with traffic on a highway or public vehicular area, or

(2) blocking or lying across or otherwise preventing or interfering with access to or passage across a sidewalk or entrance to a building, or

(3) grabbing, shoving, pushing or fighting others or challenging others to fight, or

(4) cursing or shouting at or otherwise rudely insulting others, or

(5) begging for money or other property.

(b) Any person who violates this section shall be guilty of a misdemeanor punishable by a fine of not more than fifty dollars (\$50.00) or imprisonment for not more than 30 days. Notwithstanding the provisions of G.S. 7A-273(1), a magistrate is not empowered to accept a guilty plea and enter judgment for this offense.

“§ 14-442. *Defense of alcoholism.*—(a) It is a defense to a charge of being intoxicated and disruptive in a public place that the defendant suffers from alcoholism.

(b) The presiding judge at the trial of a defendant charged with being intoxicated and disruptive in public shall consider the defense of alcoholism even though the defendant does not raise the defense, and may request additional information on whether the defendant is suffering from alcoholism.

“§ 14-443. *Disposition of defendant acquitted because of alcoholism.*—If a defendant is found not guilty of being intoxicated and disruptive in a public place because he suffers from alcoholism, the court in which he was tried may retain jurisdiction over him for up to 15 days to determine whether he is an alcoholic in need of care as defined by G.S. 122-58.19 or G.S. 122-58.20. The trial judge may make that determination at the time the defendant is found not

CHAPTER 1134 Session Laws—1977

guilty or he may require the defendant to return to court for the determination at some later time within the 15-day period.

“§ 14-444. *No prosecution for public intoxication.*—(a) No person may be prosecuted solely for being intoxicated in a public place. A person who is intoxicated in a public place and is not disruptive may be assisted as provided in G.S. 122-65.11.

(b) If, after arresting a person for being intoxicated and disruptive in a public place, the law enforcement officer making the arrest determines that the person would benefit from the care of a shelter or health care facility as provided in G.S. 122-65.11, and that he would not likely be disruptive in such a facility, the officer may transport and release the person to the appropriate facility and issue him a citation for the offense of being intoxicated and disruptive in a public place.”

Sec. 2. Chapter 122 of the General Statutes is amended by adding the following new Article:

“ARTICLE 7B.

“Public Intoxication.

“§ 122-65.10. *Definitions.*—As used in this Article:

(1) ‘intoxicated’ is the condition of a person whose mental or physical functioning is presently substantially impaired as a result of the use of alcohol; and

(2) ‘officer’ is a law enforcement officer with the power of arrest, or an officer employed by a city or county under G.S. 122-65.12; and

(3) a ‘public place’ is a place which is open to the public, whether it is publicly or privately owned.

“§ 122-65.11. *Assistance to person who is intoxicated in public.*—(a) An officer may assist a person found intoxicated in a public place by taking any of the following actions:

(1) the officer may direct or transport the intoxicated person home;

(2) the officer may direct or transport the intoxicated person to the residence of another person willing to accept him;

(3) if the intoxicated person is apparently in need of and unable to provide for himself food, clothing or shelter, but is not apparently in need of immediate medical care, the officer may direct or transport him to an appropriate public or private shelter facility approved for this purpose by the Department of Human Resources; or

(4) if the intoxicated person is apparently in need of but unable to provide for himself immediate medical care, the officer may direct or transport him to a community mental health center, hospital, or physician’s office; or the officer may direct or transport the person to any other appropriate health care facility approved for this purpose by the Department of Human Resources.

(b) In providing the assistance authorized by subsection (a), the officer may use reasonable force to restrain the intoxicated person if it appears necessary to protect himself, the intoxicated person or others. No officer may be held criminally or civilly liable for assault, false imprisonment, or other torts or crimes on account of reasonable measures taken under authority of this Article.

(c) If the officer takes the action described in either subdivision (a)(3) or (a)(4) above, the facility to which the intoxicated person is taken may detain him only until he becomes sober, or a maximum of 24 hours, unless the officer or someone

at the facility has obtained an order from a clerk or magistrate under subsection (d). The person may stay a longer period if he wishes to do so and the facility is able to accommodate him.

(d) Upon finding that it is probable that a person assisted under subdivision (a)(3) or (a)(4) is an alcoholic in need of care as defined by G.S. 122-58.19 or G.S. 122-58.20, a clerk or magistrate may order that person detained until he can appear before a district court judge for a hearing to determine if he is an alcoholic in need of care. The person may be detained no more than 96 hours for this purpose. The clerk or magistrate may direct that the person be kept at the facility to which he was taken under subdivision (a)(3) or (a)(4), or at any other facility approved for this purpose by the Department of Human Resources. If the district court judge is unable to make a determination whether the person is an alcoholic in need of care at the time the alleged alcoholic is initially brought before him, he may order the person to return to court at any time within the next 15 days to complete the determination.

“§ 122-65.12. *Cities and counties may employ officers to assist intoxicated persons.*—A city or county may employ officers to assist persons who are intoxicated in public. Officers employed for this purpose shall be trained to give assistance to those who are intoxicated in public, including the administration of first aid. An officer employed by a city or county to assist intoxicated persons shall have the powers and duties set out in G.S. 122-65.11 within the same territory in which criminal laws may be enforced by law enforcement officers of that city or county.”

Sec. 3. Chapter 122 is further amended by adding the following new section.

“§ 122-65.13. *Use of jail for care for intoxicated person.*—In addition to the actions authorized by G.S. 122-65.11(a), an officer may assist a person found intoxicated in a public place by directing or transporting that person to a city or county jail. That action may be taken only if the intoxicated person is apparently in need of and unable to provide for himself food, clothing or shelter, but is not apparently in need of immediate medical care, and no other facility is readily available to receive him. The officer and employees of the jail shall be exempt from liability as provided in G.S. 122-65.11(b). The intoxicated person may be detained at the jail only until he becomes sober, or a maximum of 24 hours, and may be released at any time to a relative or other person willing to be responsible for his care.”

Sec. 4. Chapter 122 is further amended by adding the following new sections at the end of Article 5A:

“§ 122-58.19. *Short-term treatment for alcoholic in need of care.*—(a) A district court judge may take any one or more of the actions specified in subsection (e) if he finds that a person is an alcoholic and is in need of care. A person is an alcoholic if he habitually lacks self-control as to the use of intoxicating liquor, or uses intoxicating liquor to the extent that his health is substantially impaired or endangered or his social or economic function is substantially disrupted. An alcoholic is in need of care if his alcoholism is presently causing him to lose control over his own actions to the extent that he regularly has to depend on others to provide food, clothing, shelter, medical or other essential care for him.

(b) The alleged alcoholic may be brought before the district court judge under G.S. 14-443 after being found not guilty by reason of alcoholism of the offense of

CHAPTER 1134 Session Laws—1977

being intoxicated and disruptive in a public place, or under G.S. 122-65.11 after being assisted while intoxicated in public.

(c) If he believes it will be of value in making his determination, the district court judge may direct an alcoholism court counselor, if available, to conduct a prehearing review of the alleged alcoholic's drinking history and make recommendations on proper disposition for the person if he is found to be an alcoholic in need of care.

(d) If the alleged alcoholic is an indigent within the meaning of G.S. 7A-450, and does not waive counsel, the clerk of court or the district court judge shall appoint counsel to represent him. At the hearing in district court the alleged alcoholic shall be entitled to confront and cross-examine witnesses. The hearing may be held in chambers. If the person is found to be an alcoholic in need of care and ordered to participate in a treatment program as provided in subdivision (e)(2), the judge shall record the facts which support his findings and the alcoholic shall have the right of appeal from that order as set out in G.S. 122-58.9.

(e) If the district court judge finds the person to be an alcoholic in need of care, he may take any one or more of the following actions:

- (1) direct the alcoholic in cooperation with any member of his family or other responsible person to make and follow plans for his treatment in an alcoholism program operated or approved by the court;
- (2) order the alcoholic to participate for up to 30 days in a particular outpatient or inpatient alcoholism program operated or approved by the Department of Human Resources, or commit the person to the custody of the Division of Mental Health Services for up to 30 days for assignment to an appropriate alcoholism program;
- (3) refer the alcoholic to an alcoholism program or to a particular physician or other professional qualified to assist alcoholics;
- (4) direct any alcoholism agency operated or approved by the Department of Human Resources to work with the alcoholic to develop and carry out a program for his treatment or care.

(f) As part of the action taken under subsection (e) the judge may direct the alcoholic or any public official concerned to make periodic reports for up to 30 days relating to the alcoholic's participation and progress in the activity to which he has been assigned.

“§ 122-58.20. *Long-term residential care for alcoholic who has not progressed in treatment.*—(a) A district court judge may order a person committed for up to 180 days to a residential facility operated or approved for that purpose by the Department of Human Resources, if the judge determines by clear and convincing evidence that:

- (1) the person is an alcoholic who is in need of care as defined by G.S. 122-58.19; and
- (2) he has been given recent opportunities to participate in alcoholism treatment programs; and
- (3) he has willfully refused to participate or cooperate in such programs, or has failed to show significant and sustained progress toward overcoming his alcoholism.

(b) The alleged alcoholic may be brought before the district court judge under G.S. 14-443 after being found not guilty by reason of alcoholism of the offense of being intoxicated and disruptive in a public place, or under G.S. 122-65.11 after

being assisted while intoxicated in public. The provisions of subsections (c) and (d) of G.S. 122-58.19 shall also be applicable to proceedings under this section. Notice of the district court hearing shall be given to the alleged alcoholic and his counsel by the clerk of court at least 48 hours in advance of the scheduled appearance unless counsel waived notice for the alleged alcoholic.

(c) A person committed to a residential facility for up to 180 days under subsection (a) may be released at any time prior to the end of that period when the director of the facility determines that the person is no longer in need of the care of that facility.

(d) If at the end of the period of commitment imposed under subsection (a), the director of the residential facility is of the opinion that the alcoholic is in need of further care at the facility, he may request a hearing for an additional commitment under the procedures of G.S. 122-58.11. The proceeding shall be the same as for involuntary commitment under that section except that the issue to be determined by the district court judge is whether the person should be committed under subsection (a)."

Sec. 5. G.S. 15A-534(c), as it appears in 1975 Replacement Volume 1C of the General Statutes, is amended by inserting the following language between the word and punctuation "condition;" and the word "the" in the fifth line of that subsection: "whether the defendant is intoxicated to such a degree that he would be endangered by being released without supervision;"

Sec. 6. G.S. 14-334, G.S. 14-335, G.S. 14-335.1, G.S. 122-65.6, G.S. 122-65.7, G.S. 122-65.8, and G.S. 122-65.9 are repealed.

Sec. 7. All laws, clauses of laws, and local ordinances in conflict with this act are hereby repealed.

Sec. 8. This act shall become effective on October 1, 1978.

In the General Assembly read three times and ratified, this the 12th day of June, 1977[8].

H. B. 285

CHAPTER 1135

AN ACT TO AMEND ARTICLE 25A OF CHAPTER 58 OF THE GENERAL STATUTES TO PROVIDE MOTOR VEHICLE INSURANCE COVERAGE SUFFICIENT TO MEET REQUIREMENTS OF LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 58-248.33(b)(1) is hereby amended by adding a new subdivision to read as follows:

"Any other motor vehicle insurance limits in the amount required by any law or regulatory agency regulation for those motor carriers who furnish proof of insurance or file certificates of insurance with any regulatory agency in order to comply with the security or other financial responsibility requirements of the North Carolina Utilities Commission and the United States Interstate Commerce Commission."

Sec. 2. This act shall become effective October 1, 1978.

In the General Assembly read three times and ratified, this the 13th day of June, 1978.

S. B. 920

CHAPTER 1136

AN ACT TO MODIFY CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS APPROPRIATIONS FOR NORTH CAROLINA STATE GOVERNMENT FOR THE FISCAL YEAR 1978-79, AND TO MAKE OTHER CHANGES IN THE BUDGET OPERATION OF THE STATE.

The General Assembly of North Carolina enacts:

—APPROPRIATIONS FOR MAXIMUMS/REVERT BALANCES

Section 1. The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the State budget. Savings shall be effected where the total amounts appropriated shall not be required to perform these services and accomplish these purposes, and except as allowed by the Executive Budget Act or this act, the savings shall be reverted to the appropriate fund at the end of the fiscal year.

* * * * *

An outline of the provisions of the act follows this section. The outline shows the heading “—CONTENTS/INDEX—” and it lists by general category the descriptive captions for the various sections and groups of sections that make up the act.

—CONTENTS/INDEX—

[This outline is designed for reference only, and it in no way limits, defines, or prescribes the scope or application of the text of the act.]

—APPROPRIATIONS FOR MAXIMUMS/REVERT BALANCES

Section 1.

PART I.—CURRENT OPERATIONS—GENERAL FUND

Sec. 2.

PART II.—CURRENT OPERATIONS—HIGHWAY FUND

Sec. 3.

PART III.—CAPITAL IMPROVEMENTS—GENERAL FUND

Sec. 4.

PART IV.—CAPITAL IMPROVEMENTS—HIGHWAY FUND

Sec. 5.

PART V.—GENERAL PROVISIONS

—HIGHWAY FUND UNRESERVED BALANCES

Sec. 6.

—FEDERAL REVENUE SHARING/CAPITAL APPROPRIATION

Sec. 7.

—FEDERAL ANTIRECESSION FUNDS

Sec. 8.

PART VI.—SPECIAL PROVISIONS—SALARIES AND BENEFITS

—MOST STATE WORKERS/SIX PERCENT SALARY INCREASE
ADMIN.

Sec. 9.

—LEGISLATIVE EMPLOYEES/SIX PERCENT SALARY INCREASE

Sec. 10.

—JUDICIAL BRANCH OFFICIALS/SALARIES

Sec. 11.

—ASSISTANT DISTRICT ATTORNEYS/CLASSIFICATION AND PAY
PLAN

- Sec. 11.1.
—MAGISTRATES/INCREASE MAXIMUM SALARY
- Sec. 12.
—CLERKS OF COURT/SALARIES
- Sec. 13.
—PUBLIC SCHOOL PERSONNEL/LONGEVITY
- Sec. 14.
—PUBLIC SCHOOL DRIVER TRAINING/SUMMER SALARY SCHEDULE
- Sec. 15.
—PUB. SCHOOL MAIDS & JANITORS, & PRINCIPALS' CLERKS/SALARIES
- Sec. 16.
—PUBLIC SCHOOL ADM ALLOCATED EMPLOYEES/SALARY INCREASES
- Sec. 17.
—RETIRED TEACHERS AND STATE EMPLOYEES/HOSPITALIZATION
- Sec. 18.
Sec. 18.1.
—COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES
- Sec. 19.
—HIGHER EDUCATION ACADEMIC PERSONNEL/SALARY INCREASES
- Sec. 20.
—SALARY-RELATED CONTRIBUTIONS/EMPLOYERS
- Sec. 21.
—SALARY ADJUSTMENT APPROPRIATIONS/AUTHORIZED TRANSFERS
- Sec. 22.
PART VII.—SPECIAL PROVISIONS—HUMAN RESOURCES
- MEDICAID SCHEDULES
- Sec. 23.
Sec. 23.1.
—COMMUNITY MENTAL HEALTH CENTERS
- Sec. 24.
PART VIII.—SPECIAL PROVISIONS—PUBLIC EDUCATION
- SCHOOL BUS TRANSPORTATION/AREAS OF DANGEROUS WALKING COND.
- Sec. 25.
—EXCEPTIONAL CHILDREN PROGRAM
- Sec. 26.
PART IX.—SPECIAL PROVISIONS—COMMUNITY COLLEGES
- FULL-TIME EQUIVALENT TEACHING POSITIONS
- Sec. 27.
Sec. 27.1.
PART X.—SPECIAL PROVISIONS—HIGHER EDUCATION
- EDUCATIONAL TELEVISION NETWORK IMPROVEMENTS/APPRN. & REPORT
- Sec. 28.

CHAPTER 1136 Session Laws—1977

—AID TO PRIVATE COLLEGES

Sec. 29.

—INSTITUTIONAL TRUST FUNDS/UNIVERSITY OF NORTH
CAROLINA

Sec. 30.

—SPECIAL FUNDS/UNIVERSITY OF NORTH CAROLINA

Sec. 31.

—STUDENT AUXILIARY ENTERPRISE FUNDS/UNIV. OF NORTH
CAROLINA

Sec. 32.

—DEPOSIT OF FEDERAL FUNDS/UNIVERSITY OF NORTH
CAROLINA

Sec. 33.

Sec. 33.1.

—ABC APPROPRIATIONS MODIFICATIONS/N. C. MEMORIAL
HOSPITAL

Sec. 34.

Sec. 35.

PART XI.—SPECIAL PROVISIONS—GEN. GOVT. & TRANS., & OTHER

—STATE AUDITOR/AUDITS PERFORMED FOR FEDERAL
AGENCIES

Sec. 36.

—JUVENILE PROBATION AND AFTERCARE/FUNDING DELETED

Sec. 37.

—TRAVEL ALLOWANCE FOR STATE EMPLOYEES

Sec. 38.

Sec. 38.1.

—EXPENSE ALLOWANCE/GOVERNOR

Sec. 39.

—EXPENSE ALLOWANCE/LIEUTENANT GOVERNOR

Sec. 40.

PART XII.—SPECIAL PROVISIONS—APPROPRIATIONS ACT

—RETAIN 1977 APPROPRIATIONS LIMITATIONS AND DIRECTIONS

Sec. 41.

Sec. 42.

—EXECUTIVE BUDGET ACT REFERENCE

Sec. 43.

—EFFECT OF MOST LIMITATIONS AND DIRECTIONS IN
TEXT/ONLY 78-79

Sec. 44.

—SEVERABILITY CLAUSE

Sec. 45.

—CAPTIONS NOT LIMIT TEXT/ONLY FOR REFERENCE

Sec. 46.

—EFFECTIVE DATE

Sec. 47.

PART I.—CURRENT OPERATIONS—GENERAL FUND

Sec. 2. The appropriations from the General Fund for the 1978-79 fiscal year in the 1978-79 column of the schedule in Section 2 of 1977 Session Laws Chapter 802 are repealed, and appropriations from the General Fund for the

maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the fiscal year ending June 30, 1979, according to the following schedule:

<u>Current Operations—General Fund</u>		<u>1978-79</u>
General Assembly		
01. Operations	●	6,897,045
02. Salary Increase Reserve	●	248,417
TOTAL General Assembly	●	7,145,462
Judicial Department		
01. Operations	●	54,482,184
02. Salary Increase Reserve	●	7,316,329
TOTAL Judicial Department	●	61,798,513
Governor's Office	●	1,315,596
Lieutenant Governor's Office	●	201,404
Department of Administration	●	22,671,628
Department of Secretary of State	●	501,071
Department of State Auditor	●	4,561,131
Department of State Treasurer		
01. Operations	●	1,707,183
02. Hospitalization Reserve-		
Retired Employees	●	6,028,000
TOTAL Department of State		
Treasurer	●	7,735,183
Department of Justice	●	16,595,144
Department of Revenue	●	19,381,146
State Board of Elections	●	212,447
Department of Crime Control		
and Public Safety	●	6,003,957
Department of Commerce	●	11,336,447
Department of Insurance	●	3,122,310
Department of Labor	●	2,998,450
Department of Correction	●	91,677,710
Department of Public Education		
01. Program Administration &		
Support	●	77,170,263
02. Fiscal Administration &		
Support	●	910,791,628
03. Salary Increase Reserve-		
Public School Employees	●	105,820,659
TOTAL Department of Public		
Education	●	1,093,782,550
Department of Community Colleges		
01. Operations	●	114,987,952
02. Longevity	●	364,984
03. Merit Salary Increases	●	3,596,035
04. Equipment	●	6,070,358
05. Salary Increase Reserve		
Community College Personnel	●	14,184,570
TOTAL Community Colleges	●	139,203,899

CHAPTER 1136 Session Laws—1977

The University of North Carolina Board of Governors

01. General Administration	●	4,926,162
02. Lump Sum Appropriations	●	32,610,840
03. Related Educational Programs	●	20,196,342
04. Agricultural Programs	●	1,266,400
05. Reserve for Merit Increments		
a. Sixteen Constituent Institutions	●	5,441,496
b. Agricultural Programs	●	433,992
c. Memorial Hospital	●	124,512
06. Salary Increase Reserve		
a. Sixteen Constituent Institutions	●	21,073,953
b. Agricultural Programs	●	1,675,729
c. Memorial Hospital	●	489,616
07. University of North Carolina at Chapel Hill		
a. Academic Affairs	●	42,025,120
b. Division of Health Affairs	●	28,153,641
c. Area Health Education Centers	●	10,709,436
08. North Carolina State University at Raleigh		
a. Academic Affairs	●	43,266,380
b. Agricultural Experiment Station	●	12,633,090
c. Agricultural Extension Service	●	9,685,995
09. University of North Carolina at Greensboro	●	17,328,992
10. University of North Carolina at Charlotte	●	14,165,941
11. University of North Carolina at Asheville	●	3,104,751
12. University of North Carolina at Wilmington	●	6,162,837
13. East Carolina University	●	22,890,481
14. North Carolina Agricultural & Technical State University	●	10,245,009
15. Western Carolina University	●	11,092,421
16. Appalachian State University	●	14,889,126
17. Pembroke State University	●	3,889,368
18. Winston-Salem State University	●	4,612,195
19. Elizabeth City State University	●	3,568,574

20. Fayetteville State University	•	4,219,545
21. North Carolina Central University	•	8,938,073
22. North Carolina School of the Arts	•	2,222,945
23. North Carolina Memorial Hospital	•	17,976,650
TOTAL University of North Carolina	•	380,019,612
Department of Cultural Resources	•	12,436,202
Department of Transportation		
01. Aid to Airports	•	1,616,571
02. Mass Transit Aid	•	1,010,000
TOTAL Department of Transportation	•	2,626,571
Department of Human Resources		
01. Central Administration	•	8,509,064
02. Health Services	•	32,916,794
03. Services for the Blind	•	3,822,729
04. Vocational Rehabilitation	•	10,283,275
05. Mental Health Services		
a. Administration and Grant-in-aid	•	45,137,630
b. Alcoholic Rehabilitation Center, Black Mountain	•	1,645,860
c. Alcoholic Rehabilitation Center, Butner	•	1,154,629
d. Walter B. Jones Alcoholic Rehabilitation Center, Greenville	•	1,188,933
e. Dorothea Dix Hospital	•	15,744,051
f. Broughton Hospital	•	13,299,042
g. Western Carolina Center	•	4,707,324
h. Cherry Hospital	•	14,729,863
i. O'Berry Center	•	6,195,186
j. John Umstead Hospital	•	13,544,260
k. Murdoch Center	•	13,015,209
l. Caswell Center	•	14,774,125
m. Wright School	•	641,908
06. North Carolina Orthopedic Hospital	•	1,185,000
07. Lenox D. Baker Children's Hospital of North Carolina	•	265,164
08. Confederate Women's Home	•	116,173
09. North Carolina Specialty Hospital		
a. General Administrative Office	•	237,044
b. McCain Hospital	•	1,643,568

c. Western Carolina Hospital	●	1,943,504
d. Eastern North Carolina Hospital	●	1,915,938
10. Division of Youth Services		
a. Operations	●	10,033,563
b. Salary Increase Reserve-Teachers	●	204,714
11. North Carolina School for the Deaf	●	4,545,835
12. Eastern North Carolina School for the Deaf	●	2,449,020
13. Central North Carolina School for the Deaf	●	1,620,632
14. Governor Morehead School	●	2,501,953
15. Facility Services	●	6,272,643
16. Social Services	●	144,857,998
17. State Aid to Non-State Health & Welfare Agencies	●	3,521,048
TOTAL Department of Human Resources	●	384,623,679
Department of Natural Resources & Community Development	●	24,031,103
Department of Agriculture	●	16,885,004
Debt Service-Interest	●	27,100,000
Debt Service-Redemption	●	25,900,000
Contingency & Emergency	●	1,960,000
Salary Adjustments of State Employees	●	1,300,000
Reserve for Continuation of Hospital Benefits Increases of 1977-78	●	3,500,000
Reserve for Social Security	●	2,769,400
Reserve for Continuation of Longevity Increases of 1977-78	●	647,500
Reserve for Continuation of Seventh Merit Step of 1977-78	●	5,500,000
Reserve for Travel	●	700,000
Salary Increase for State Employees Subject to State Personnel Act	●	57,866,948
Salary Increase for Personnel Exempt from the State Personnel Act & Utilities Commissioners	●	329,280
GRAND TOTAL CURRENT OPERATIONS—GENERAL FUND	●	\$2,438,439,347
PART II.—CURRENT OPERATIONS—HIGHWAY FUND		

Sec. 3. The amounts appropriated from the Highway Fund for the 1978-79 fiscal year in the 1978-79 column of the schedule in Section 3 of 1977 Session Laws Chapter 802 are repealed, and appropriations from the Highway Fund for the expense of collecting revenues, for the service of the highway debt,

and for the maintenance of transportation-related activities are made for the fiscal year ending June 30, 1979, according to the following schedule:

<u>Current Operations—Highway Fund</u>		<u>1978-79</u>
Department of Transportation		
01. General Administration	●	11,163,319
02. Highways		
a. Maintenance & Operations	●	18,227,446
b. State Construction		
(01) Primary Construction	●	23,286,000
(02) Secondary Construction	●	23,427,785
(03) Urban Construction	●	8,090,000
(04) Access & Public Service		
Roads	●	500,000
(05) Bridge Replacements	●	5,212,300
c. State Funds to Match		
Federal Highway Aid		
(01) Construction	●	47,873,400
(02) Planning Survey & Highway		
Planning Research	●	1,493,952
d. State Maintenance		
(01) Primary	●	47,529,381
(02) Secondary	●	73,343,703
(03) Urban	●	13,908,202
e. Ferry Operations	●	4,883,686
f. State Aid to Municipalities	●	32,957,337
g. Merit Salary Increments for		
Central Offices and		
Division of Highways	●	7,273,243
h. Employers' Contributions for		
Central Offices and Division		
of Highways		
(01) Social Security	●	7,721,126
(02) Retirement	●	11,122,617
(03) Hospital/Medical		
Insurance	●	3,329,066
03. Mass Transit Administration	●	142,393
04. Aeronautics		
Administration	●	34,154
05. Motor Vehicles	●	25,660,134
06. Salary Increase for Em-		
ployees Subject to the State		
Personnel Act	●	23,719,675
07. Reserve for Continuation		
of Hospitalization Cost In-		
creases in 1977-78	●	438,396
08. Salary Adjustment Fund	●	650,000
09. Reserve for Continuation of		
Seventh Merit Increment Step	●	3,010,000
10. Reserve for Continuation of		

CHAPTER 1136

Session Laws—1977

Longevity Reserve	●	686,162
11. Reserve for Social Security	●	155,364
12. Travel Reserve	●	50,000
13. Reserve for Contingencies	●	250,000
14. Reserve to Correct Occupational Safety and Health Act Deficiencies	●	500,000
15. Debt Service	●	29,691,000
Appropriations for Other State Agencies	●	
01. Crime Control & Public Safety	●	29,927,994
02. Other Agencies		
a. Department of Agriculture	●	1,148,243
b. Department of Commerce	●	487,768
c. Department of Labor	●	5,387
d. Department of Revenue	●	804,776
e. Department of State Auditor	●	914,886
f. Department of Community Colleges	●	115,566
g. Human Resources	●	53,894
h. Correction	●	500,000
GRAND TOTAL—HIGHWAY FUND	●	\$460,288,355

PART III.—CAPITAL IMPROVEMENTS—GENERAL FUND

Sec. 4. The items and amounts appropriated from the General Fund for the 1978-79 fiscal year in the 1978-79 column in the schedule in Section 4 of 1977 Session Laws Chapter 681 and the total amount appropriated to begin July 1, 1978, in the first paragraph of Section 4 are repealed, and appropriations are made from the General Fund for use by State institutions, departments and agencies to provide for capital improvement projects according to the following schedule:

Capital Improvements—General Fund	1978-79
DEPARTMENT OF ADMINISTRATION	
(TOTAL)	10,240,000
01. Repairs and Alterations to State Buildings in the State Government Center	150,000
02. Two New Elevators for Justice Building	100,000
03. Land Acquisition - State Government Center	150,000
04. Land Acquisition - State Parks	1,000,000
Less Receipts-Federal-BOR	500,000
Subtotal, General Fund	500,000
05. Hangar and Fuel Storage Facility for Helicopters	60,000
06. Energy Retro-fitting Measures-State Buildings	500,000

07. Architectural Barriers		
Removal-State Government Center	●	50,000
08. Blount Street Historic District-Acquisition, Renovations and Landscaping	●	150,000
09. Reroof Agriculture Building	●	80,000
10. Office Building	●	8,500,000
DEPARTMENT OF AGRICULTURE (TOTAL)	●	2,646,050
01. Repairs to Dorton Arena	●	650,000
02. Three Mobile Laboratories - Aflatoxin Testing Services	●	98,450
03. Supplement for Animal Disease Diagnostic Lab - Union County	●	40,000
04. Land Acquisition-N. C. State Fairgrounds	●	1,500,000
05. Animal Disease Diagnostic Laboratory-Rose Hill	●	300,000
06. Grant-in-Aid: Lenoir County Farmers Market	●	57,600
BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA (TOTAL)	●	49,678,700
Funds for Schedule of Priorities-Capital Improvements:		
01. The University of North Carolina at Charlotte, Classroom/Office Building (Phase II)	●	6,877,000
02. OSHA Compliance; Architectural Barrier Removal; Renovation and Construction; Land Acquisition	●	2,500,000
03. School of Veterinary Medicine	●	7,280,000
04. New Facilities, Major Renovation & Facilities Planning	●	24,183,000
Subtotal, Funds for Schedule of Priorities-Capital Improvements	●	40,840,000
05. North Carolina Memorial Hospital		
a. Renovations to existing Facilities	●	3,000,000
06. U.N.C.-General Administration: Expansion of the Educational Television Network	●	5,838,700
DEPARTMENT OF COMMERCE (TOTAL)	●	700,000
01. State Ports Authority		

CHAPTER 1136 Session Laws—1977

a. Reserve for Capital		
Construction	•	700,000
COMMUNITY COLLEGES (TOTAL)	•	1,000,000
01. Capital Construction Grants	•	1,222,932
Less Receipts-Federal Funds	•	222,932
Subtotal, General Fund	•	1,000,000
DEPARTMENT OF CORRECTION		
(TOTAL)	•	45,700,000
01. Replacement of Central Prison	•	16,150,000
02. Reserve for Repairs and Renovations at Existing Facilities	•	3,000,000
03. Reserve for Prison Construction	•	26,250,000
04. Mobile Classrooms	•	300,000
DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY (TOTAL)	•	130,000
01. New Armory, Reidsville/Eden	•	650,000
Less Receipts-Local Funds	•	81,250
Less Receipts-Federal Funds	•	487,500
Subtotal, General Fund	•	81,250
02. New Armory, Edenton	•	390,000
Less Receipts-Local Funds	•	48,750
Less Receipts-Federal Funds	•	292,500
Subtotal, General Fund	•	48,750
DEPARTMENT OF CULTURAL RESOURCES		
(TOTAL)	•	200,000
01. Reserve for Capital Improvements at Historic Sites	•	200,000
DEPARTMENT OF HUMAN RESOURCES		
(TOTAL)	•	8,585,000
01. Correction of Code Deficiencies	•	2,000,000
02. Rural Health Clinics:		
Grant-in-aid		
a. Marshall-Walnut Medical Clinic	•	80,000
b. Pittsboro Medical Clinic	•	15,000
03. North Carolina School for the Deaf		
a. Renovation of Hoffmeyer Hall		
(01) Building	•	590,000
(02) Equipment	•	25,000
Subtotal	•	615,000
04. Central North Carolina School for Deaf		
a. Gymnasium	•	600,000
05. Governor Morehead School		
a. Replacement of Boiler and		

Renovation of Heating System	●	250,000
06. Lenox Baker Children's Hospital		
a. Renovation, Phase II	●	1,250,000
07. Cherry Hospital		
a. Renovation and Air Conditioning of Caswell Annex		
(01) Building	●	1,450,000
(02) Equipment	●	40,000
Subtotal	●	1,490,000
08. Caswell Center		
a. Air Conditioning of Residential Buildings	●	300,000
b. Completion of Non-Ambulatory Dormitory		
(01) Building	●	915,000
(02) Equipment	●	85,000
Subtotal	●	1,000,000
09. O'Berry Center		
a. Renovation of Primary Electrical and Street Lighting Systems	●	135,000
10. Western Carolina Center		
a. Construction of Facilities for Educable Program		
(01) Building	●	800,000
(02) Equipment	●	50,000
Subtotal	●	850,000
DEPARTMENT OF JUSTICE (TOTAL)	●	548,058
01. Renovation Funds for State Bureau of Investigation Facilities at Garner Road Campus (Supplement)	●	357,058
02. Reroofing Buildings at the Criminal Justice Academy	●	191,000
DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT (TOTAL)	●	4,500,000
01. Division of Environmental Management		
a. Reserve for Civil Works Projects		
(01) Reserve for Civil Works	●	750,000
(02) Reserve for Wanchese Harbor	●	500,000
(03) Watershed Projects - Chicod Creek and Swift Creek	●	300,000
02. Division of Parks and		

Recreation		
a. Reserve for Capital Improvements at State Parks & Water-Based Recreation Areas	●	1,200,000
03. Forestry		
a. Irrigation System and Other Facilities	●	100,000
04. North Carolina Zoological Park		
a. New Construction	●	2,250,000
Less Private Gifts, Donation	●	600,000
Subtotal, General Fund	●	1,650,000
GRAND TOTAL - CAPITAL IMPROVEMENTS - GENERAL FUND APPROPRIATION	●	\$ 123,927,808
PART IV.—CAPITAL IMPROVEMENTS—HIGHWAY FUND		

Sec. 5. The items and amounts appropriated from the Highway Fund for the 1978-79 fiscal year in the 1978-79 column in the schedule in Section 5 of 1977 Session Laws Chapter 681 and the total amount appropriated to begin July 1, 1978, in the first paragraph of Section 5 are repealed, and appropriations are made from the Highway Fund for use of the Departments of Transportation and Crime Control and Public Safety to provide for capital improvements projects according to the following schedule:

Capital Improvements—Highway Fund	1978-79
DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY (TOTAL)	● \$ 400,600
01. Highway Patrol	
a. Renovation-Garner Road Campus	● 400,600
DEPARTMENT OF TRANSPORTATION (TOTAL)	● 1,133,395
01. Highways	
a. Reserve for Capital Improvement Projects	● 300,000
b. Renovation of Marine Repair Facility	● 500,000
02. Governor's Highway Safety	
a. Purchase of Thompson Building	● 575,000
Less Federal Receipts	● 241,605
Subtotal, Highway Fund	● 333,395
GRAND TOTAL - CAPITAL IMPROVEMENTS - HIGHWAY FUND	● \$ 1,533,995
PART V.—GENERAL PROVISIONS	
—HIGHWAY FUND UNRESERVED BALANCES	

Sec. 6. Any unreserved credit balances in the Highway Fund on June 30, 1978, shall be available for 1978-79 appropriations in Section 3 and Section 5 of this act.

—FEDERAL REVENUE SHARING/CAPITAL APPROPRIATION

Sec. 7. The allocations from the General Revenue Sharing Trust Fund of the State for the 1978-79 fiscal year in the 1978-79 column of the schedule in Section 5.5 of 1977 Session Laws Chapter 681 are repealed, and allocations are made from the General Revenue Sharing Trust Fund of the State for the fiscal year ending June 30, 1979, according to a new substituted schedule to read as follows:

<u>Capital Improvements</u>		<u>1978-79</u>
Administration		

04. Elevators - Justice Building	•	\$ 100,000
05. Land Acquisition - Government Center	•	150,000
06. Land Acquisition - State Parks	•	500,000

Subtotal	•	750,000
Agriculture		

06. Repairs to Dorton Arena	•	650,000

Subtotal	•	650,000
Correction		
01. Central Prison Replacement, Phase I	•	16,150,000
02. New Single Cell Construction	•	10,450,000
Subtotal	•	26,600,000
Cultural Resources		
01. Capital Reserve for Historic Sites	•	200,000
Subtotal	•	200,000
Crime Control & Public Safety		
01. Armories	•	130,000
Subtotal	•	130,000
Natural Resources and Community Development		
01. State Parks Capital Reserve	•	1,200,000
Subtotal	•	1,200,000
Commerce		
01. Reserve for State Ports	•	700,000
Subtotal	•	700,000
Human Resources		
01. Code Deficiencies Reserve	•	2,000,000

Subtotal	•	2,000,000
CRAND TOTAL - REV. SHAR./		
CAPITAL	•	\$32,230,000
—FEDERAL ANTIRECESSION FUNDS		

Sec. 8. The appropriations from antirecession funds for fiscal year 1978-79 in Section 12.5 of 1977 Session Laws Chapter 802 (to the Department of

CHAPTER 1136 Session Laws—1977

Correction — Adult Prisons Custody and Security in the amount of one million eight hundred thousand dollars (\$1,800,000)) are repealed.

PART VI.—SPECIAL PROVISIONS—SALARIES AND BENEFITS — MOST STATE WORKERS/SIX PERCENT SALARY INCREASE ADMIN.

Sec. 9. The Director of the Budget is authorized to transfer from the appropriations in Sections 2 and 3 of this act for legislative salary increases of State employees paid from the General Fund and the Highway Fund, respectively, such amounts, including the employer's retirement and social security contributions, as may be required to increase salaries in effect on June 30, 1978, for all permanent employees by an average of six percent (6%) commencing July 1, 1978, rounded to conform to the steps in such salary ranges as may be adopted by the State Personnel Commission. For an employee whose salary in effect on June 30, 1978, is not equal to a specific pay rate within the salary schedule effective on that date, the annual increase will be the amount applicable to the next lower pay rate.

Except for salaries specifically established in this act, State department secretaries and other exempt positions whose salaries are recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall be granted the same approximately six percent (6%) salary increases as provided for other State employees under this section, commencing July 1, 1978.

The Director of the Budget is authorized to allocate, out of special operating funds or from sources other than tax revenues under which personnel are employed, sufficient funds to allow increases in salaries paid from those sources to conform with the increases authorized for other State employees under the provisions of this section, provided necessary funds are made available by sponsoring agencies.

The Director of the Budget is further authorized to promulgate special rules and regulations to apply to salary increases for employees whose salaries are paid from interagency receipts, where payments for the services of such employees originate from State appropriations, to the end that the effective purchasing power of such appropriations is not materially reduced as a result of these salary increases. Any question as to the applicability of the provisions of this paragraph shall be resolved by the Director of the Budget and the Advisory Budget Commission.

Salaries for positions which are paid partially from the General Fund and partially from sources other than the General Fund shall be increased from the General Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund.

The granting of the legislative salary increases under this section shall not affect the status of eligibility for automatic or merit salary increments or both for which employees may be eligible.

The salary ranges for all employees under the State Personnel Act shall be increased, so far as the maximums are concerned by amounts corresponding to those of the legislative salary increase so that, after the salary increases provided for in this act are made, every employee will continue to have the same relative position with respect to salary increases and future increments as he would have had if the salary increases provided by this act had not been made.

The salary increases provided in this act to be effective July 1, 1978, shall not apply to persons separated from State service due to resignation, dismissal, reduction in force, death or retirement, whose last work day is prior to July 1, 1978.

Within regular executive Budget Act procedures as limited by this act, all State agencies and departments are authorized to increase the rate of pay of temporary State employees, subject to availability of funds in the particular agency or department and on an equitable basis, by pro rata amounts approximately equal to the six percent (6%) increase provided for other State employees.

—LEGISLATIVE EMPLOYEES/SIX PERCENT SALARY INCREASE

Sec. 10. The Legislative Services Officer is authorized to increase the salaries of permanent non-elected employees of the General Assembly in effect on June 30, 1978, by six percent (6%) commencing July 1, 1978, rounded to the nearest whole dollar figure divisible by 12 and otherwise adjusted to conform with the relative levels of the Legislative Services Commission salary schedule. The granting of this legislative percentage salary increase shall not affect the status of employees' eligibility for automatic or merit increments.

—JUDICIAL BRANCH OFFICIALS/SALARIES

Sec. 11. The annual salary, in fiscal year 1978-79, of the specified judicial branch official shall be as follows:

<u>Judicial Branch Officials</u>	<u>1978-79</u>
Chief Justice, Supreme Court	\$48,000
Associate Justice, Supreme Court	47,000
Chief Judge, Court of Appeals	45,500
Judge, Court of Appeals	44,500
Judge, Superior Court	39,500
Chief Judge, District Court	33,250
Judge, District Court	32,000
District Attorney	36,750
Assistant District Attorney — an average of	23,750
Administrative Officer of the Courts	42,000
Assistant Administrative Officer of the Courts	30,000
Public Defender	36,750
Assistant Public Defender — an average of	23,750

The minimum salary of any assistant district attorney, and any assistant public defender shall be twelve thousand dollars (\$12,000) per annum; provided, that on recommendation of the district attorney or the public defender with the approval of the Administrative Officer of the Courts, the salaries of assistant district attorneys and assistant public defenders may be adjusted so long as the average salaries of assistant district attorneys and assistant public defenders in a judicial district do not exceed twenty-three thousand seven hundred fifty dollars (\$23,750).

Funds appropriated in Section 2 of this act for salary increases and related employer's retirement and social security contributions for permanent employees of the Judicial Department, except for those itemized in this act, are to provide salary increases commencing July 1, 1978, of the same percentage as that authorized in Section 9 of this act (approximately 6%) for State employees

CHAPTER 1136 Session Laws—1977

subject to the Personnel Act, rounded to conform to the steps in the salary ranges adopted by the Judicial Department.

—ASSISTANT DISTRICT ATTORNEYS/CLASSIFICATION AND PAY PLAN

Sec. 11.1. Section 41.6 of Chapter 802 of the 1977 Session Laws is repealed.

The Administrative Office of the Courts is requested to study the salaries of the Assistant District Attorneys in the Court System and prepare a report on a classification and pay plan that conforms generally with the recommendations contained in a like study conducted by the Office of State Personnel of the salaries for attorneys in the Department of Justice. This report is to be presented to the 1979 Session of the General Assembly.

—MAGISTRATES/INCREASE MAXIMUM SALARY

Sec. 12. The maximum salary of magistrates in G.S. 7A-172 is changed by deleting "Eleven thousand four hundred seventy-six dollars (\$11,476)" and inserting in lieu thereof "twelve thousand one hundred sixty-eight dollars (\$12,168)".

—CLERKS OF COURT/SALARIES

Sec. 13. The schedule of salaries of clerks of superior courts beginning on line 5 of G.S. 7A-101, as it appears in the 1977 Cumulative Supplement to Volume 1B of the General Statutes, is deleted and in lieu thereof the following schedule is substituted:

<u>Population</u>	<u>Salary</u>
Less than 10,000	\$13,000
10,000 to 19,999	16,500
20,000 to 49,999	19,500
50,000 to 99,999	22,500
100,000 to 199,000	25,500
200,000 and above	31,000

—PUBLIC SCHOOL PERSONNEL/LONGEVITY

Sec. 14. The funds appropriated in Section 2 of this act to the State Board of Education include nine million five thousand four hundred fifty-four dollars (\$9,005,454) for the fiscal year beginning July 1, 1978, to provide a schedule of longevity payments for State-allotted public school personnel. These longevity payments shall be based on the same payment rates as allowed for State employees subject to the State Personnel Act and for service intervals beginning with 10 years for superintendents, associate and assistant superintendents, and classified principals and with 15 years for supervisors, teachers, property cost clerks, and school bus mechanics.

The longevity payments described in this section shall not exceed the longevity appropriation made to the State Board of Education plus any available legislative salary increase funds for public school employees. Eligibility requirements for public school employees to receive these lump sum payments shall be those adopted by the State Personnel Commission for the State employees as of January 1, 1976. The State Board of Education is directed to formulate rules and regulations necessary to carry out the provisions of this section.

—PUBLIC SCHOOL DRIVER TRAINING/SUMMER SALARY SCHEDULE

Sec. 15. The State Board of Education is authorized, within driver training funds available, to increase the summer salary schedule for driver training personnel by approximately six percent (6%) annually as provided in this act for other school personnel.

—PUB. SCHOOL MAIDS & JANITORS, & PRINCIPALS' CLERKS/SALARIES

Sec. 16. Superintendents of the State's local public school units shall use funds appropriated for salary increases for State-funded janitor and maid employees, and also for State-funded clerical assistants in the offices of principals and superintendents, to assure that such employees shall receive salary increases of approximately six percent (6%) (subject to the provisions of this act that apply to salary increases for teaching personnel) on that portion of their salaries which is State-funded.

—PUBLIC SCHOOLS ADM ALLOCATED EMPLOYEES/SALARY INCREASES

Sec. 17. Funds have been appropriated to the Department of Public Education in Section 2 of this act to provide the appropriate salary increase of approximately six percent (6%) for public school employees paid from State Average Daily Membership (ADM) allocations for instructional personnel in the areas of math, reading, and cultural arts; support personnel in the areas of psychological and guidance counseling, health, and social services; and personnel in the area of physical education in grades K-6.

— R E T I R E D T E A C H E R S A N D S T A T E EMPLOYEES/HOSPITALIZATION

Sec. 18. There is appropriated in Section 2 of this act the sum of six million twenty-eight thousand dollars (\$6,028,000) to the Department of State Treasurer for the purpose of supporting hospital-medical premiums for retired members and surviving spouses who are eligible for coverage in the State's Hospital-Medical Benefits Program to be effective October 1, 1978. Payments from the appropriation shall be made at the rate of sixteen dollars and forty-four cents (\$16.44) per month for those eligible for Medicare and at the rate of twenty-four dollars and forty-eight cents (\$24.48) per month for those not eligible for Medicare.

Sec. 18.1. G.S. 135-33, as it appears in the 1977 Cumulative Supplement to Volume 3B of the General Statutes, is amended by inserting in line 19 after the word "employees" at the end of the sentence, the words and punctuation: ", adjusted for any appropriation by the General Assembly for qualified individuals"; and further amended by inserting in line 27 after the word "benefits" at the end of the sentence, the words and punctuation: ", adjusted for any appropriation by the General Assembly for qualified individuals".

—COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES

Sec. 19. Funds are appropriated in Section 2 of this act to provide an annual average salary increase of six percent (6%) in 1978-79 for all community college institutional personnel. These funds are to be allocated to individuals according to rules and regulations established by the State Board of Education and may not be used to establish any new positions.

—HIGHER EDUCATION ACADEMIC PERSONNEL/SALARY INCREASES

Sec. 20. Funds are appropriated in Section 2 of this act to provide an annual average salary increase of six percent (6%) in 1978-79 for employees

CHAPTER 1136 Session Laws—1977

exempt from the State Personnel Act in the constituent institutions of The University of North Carolina. These funds are to be allocated to individuals in accordance with rules and regulations established by the Board of Governors and may not be used to establish any new positions.

—SALARY-RELATED CONTRIBUTIONS/EMPLOYERS

Sec. 21. Required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts (other than gifts, including foundation funds), shall be paid from the same source as the source of the employee's salary. In those instances in which an employee's salary is paid in part from the General Fund and in part from department, office, institution, or agency receipts (other than gifts, including foundation funds), required employer salary-related contributions shall be paid from the General Fund only to the extent of the proportionate part paid from the General Fund in support of the salary of such employee, and the remainder of the employer's requirement shall be paid from the same source which supplies the remainder of such employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital-medical insurance, longevity, and unemployment insurance, except that where the employee's salary is paid in whole or in part from gifts, including foundation funds, the source of such gifts must bear its proportional share of the employer's requirement for these purposes.

Any questions as to the applicability of the provisions of this section shall be resolved by the Director of the Budget and the Advisory Budget Commission.

—SALARY ADJUSTMENT APPROPRIATIONS/AUTHORIZED TRANSFERS

Sec. 22. The Director of the Budget is authorized to transfer to General Fund budget codes from the General Fund salary adjustment appropriation, and to Highway Fund budget codes from the Highway Fund salary adjustment appropriation, such amounts as may be required to support approved salary adjustments made necessary by difficulties in recruiting and holding qualified employees in State government. The funds are to be transferred only when the use of salary reserve funds in individual operating budgets is not feasible.

PART VII.—SPECIAL PROVISIONS—HUMAN RESOURCES

—MEDICAID SCHEDULES

Sec. 23. Appropriations in Section 2 of this act for services provided in accordance with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy and the medically needy. Funds appropriated for such services are to be expended in accordance with the following schedule of services and payment basis:

<u>Services</u>	<u>Payment Basis</u>
Hospital - Inpatient	Allowable costs, but administrative days for any period of hospitalization shall be limited to a maximum of 3 days.
Hospital - Outpatient	90 percent of allowable costs.
Mental and Specialty Hospitals	Allowable costs.

Skilled Nursing Facilities, Intermediate Care Facilities, and Intermediate Care Facilities for the Mentally Retarded	As prescribed under the State Plan for Reimbursing Long Term Care Facilities.
Drugs	Drug cost as allowed by federal regulation plus \$2.50 professional service fee per month excluding refills for same drug or generic equivalent during the same month. (Payments for drugs are subject to the language on drugs at the end of this section.)
Physicians	90 percent of allowable usual and customary charges.
Chiropractors	90 percent of allowable usual and customary charges.
Dental	90 percent of allowable usual and customary charges. (Pay- ments for dental services are subject to the language on dental services at the end of this section.)
Home Health	Allowable costs.
Optical Services	90 percent of allowable usual and customary charges.
Medicare Buy-In	Social Security. Administration premium.
Clinics - Public Health	Allowable costs.
Ambulance Services	100 percent of allowable, reasonable, usual and customary charges.
Pre-21 Screening	See specific services, i.e., Physician and Clinic.
Hearing Aids	80 percent usual, customary, and reasonable charges (including dispensing fee).
Clinics - Mental Health	Allowable costs (federal portion only; nonfederal share covered by State/local operating funds).
Family Planning	See specific services, i.e., Hospital, Physician, and Clinic.
Independent Laboratory and X-Ray Services	90 percent of allowable usual and customary charges.
Optical Supplies	100 percent of reasonable wholesale cost of materials.

Any changes in services or basis of payment in the Medicaid Program must be approved by the Governor and the Advisory Budget Commission.

The State shall pay eighty-five percent (85%) and the counties shall pay fifteen percent (15%) of the nonfederal costs of applicable services listed in this section. These same State and county percentages shall be used for any prepaid premium if Medicaid services and related administrative costs are paid for by a health-insuring contractor.

As allowed by federal regulations, recipient co-payments shall be required for services under Medicaid as follows:

Service	Eligibility		Co-Payment for Each Occasion of Service
	Categorically Needy	Medically Needy	
Hospital - Inpatient		x	\$ 2.00
Hospital - Outpatient		x	1.00
Physicians		x	1.00
Optometrists		x	1.00
Drugs	x	x	.50
Dental	x	x	2.00
Chiropractors	x	x	.50
Optical Supplies and Services	x	x	2.00
Mental Health Centers	x	x	1.00
Health Departments	x	x	1.00

Maximum net family annual income eligibility standards for Medicaid shall be as follows:

Family Size	Categorically Needy		Medically Needy
	AFDC*	AA,AB,AD*	
1	\$1,452	\$1,700	\$1,700
2	1,908	2,200	2,200
3	2,196	2,500	2,500
4	2,400	2,800	2,800
5	2,628	3,000	3,000
6	2,832	3,200	3,200
7	3,036	3,400	3,400
8	3,168	3,600	3,600
9	3,300	3,800	3,800
10	3,480	4,000	4,000
11	3,660	4,200	4,200
12	3,840	4,400	4,400
13	4,020	4,600	4,600

[*Aid to Families with Dependent Children (AFDC); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD).]

Any change in these standards must be approved by the Governor and the Advisory Budget Commission.

Funds appropriated to the Department of Human Resources for dental services shall be dispersed only with prior approval as required by this paragraph. No prior approval shall be required for emergency services or routine services. Routine services are defined as examinations, x-rays, prophylaxis, nonsurgical tooth extractions, amalgam fillings, and fluoride

treatments. Prior approval shall be required for all other services and for routine services performed more than two times during a consecutive 12-month period. The Department of Human Resources shall establish rules and regulations, as provided by the Administrative Procedures Act, for obtaining prior approval as required by this section.

Notwithstanding any provision of G.S. 90-76 to the contrary, during the 1978-79 fiscal year, under the Medical Assistance program (Title XIX of the Social Security Act) a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber personally indicates, either orally or in his own handwriting on the prescription order, "dispense as written" or words of similar meaning. As used in this paragraph "brand name" means the proprietary name the manufacturer places upon a drug product or on its container, label or wrapping at the time of packaging; and "established name" shall have the same meaning as assigned that term by the Federal Food, Drug and Cosmetic Act as amended, Title 21 U.S.C. 301 et seq.

Sec. 23.1. Section 17 of 1977 Session Laws Chapter 802 is repealed.

—COMMUNITY MENTAL HEALTH CENTERS

Sec. 24. Of the funds appropriated in Section 2 of this act to the Department of Human Resources, one million two hundred fifty thousand dollars (\$1,250,000) in fiscal year 1978-79 is for the Division of Mental Health Services for inpatient services in community mental health centers. These funds are to be distributed to the area mental health boards to assist in the start-up phase of inpatient units on the basis of Rules and Regulations adopted by the Department of Human Resources. The funds for start-up costs are to be distributed in addition to any other State moneys to community mental health centers.

To qualify for funds under this section, area mental health boards shall submit a plan to the Department of Human Resources that details how these funds are to be expended and the procedures that will be employed to collect patient fees and various forms of third-party reimbursements.

PART VIII.—SPECIAL PROVISIONS—PUBLIC EDUCATION

—SCHOOL BUS TRANSPORTATION/AREAS OF DANGEROUS WALKING COND.

Sec. 25. The sum of one million five hundred thousand dollars (\$1,500,000) has been appropriated to the Department of Public Education in Section 2 of this act to assist local school units with certain school bus operational costs. These funds are specifically provided for transportation of pupils living within one and one-half miles of schools who must walk through dangerous conditions. The State Board of Education shall adopt rules and regulations for the distribution of these funds to the local school units having the greatest need to provide this type of school bus transportation and willing to purchase the necessary buses.

—EXCEPTIONAL CHILDREN PROGRAM

Sec. 26. In Section 2 of this act, funds have been appropriated to expand education and related services to approximately 153,000 children with special needs between the ages of five and eighteen. These increased funds shall be used: (1) to provide the appropriate educational and related services to children between the ages of five and eighteen identified and unserved in the categories covered by P.L. 94-142 and Chapter 927 of the 1977 Session Laws; (2) to

CHAPTER 1136 Session Laws—1977

continue efforts to identify and serve those children who have not been previously identified using personnel in the Department of Human Resources and the Department of Public Instruction and private diagnostic services when those State agencies cannot evaluate on a timely basis, those children between the ages of five and eighteen who are suspected of having special needs covered by P.L. 94-142 and Chapter 927 of the 1977 Session Laws; and (3) to ensure that all children between the ages of five and eighteen in the categories covered by P.L. 94-142 and Chapter 927 of the 1977 Session Laws who are currently receiving an inadequate education will have available a free appropriate public education.

In addition to the State funds appropriated for these services, there are anticipated federal funds which may be used in accordance with federal law. All federal funds received during the 1978-79 fiscal year are to be used to the maximum extent possible.

These State and federal funds will provide additional teachers' aides, special materials and equipment, staff development, diagnostic services and other needed services as approved by the State Board of Education for handicapped children as defined by P.L. 94-142, and for children identified as children with special needs in Chapter 927 of the 1977 Session Laws.

The funds will allow the State Board of Education to implement standards as required by the federal and State laws to all children with special needs as defined by State Board rules. The standards must be provided to all children with special needs by September 1, 1978.

When additional funds are required to provide diagnostic services and to provide educational and related services for those identified as having special needs according to State Board rules, budget transfers within the Department of Public Instruction during the 1977-79 biennial budget can be made or a special emergency appropriations bill can be considered in January 1979 at the beginning of the 1979 General Assembly.

It is essential that diagnostic evaluations be made in a timely manner so that children with special needs may be appropriately placed in school early in the academic year. The Department of Human Resources is qualified to conduct these evaluations and is encouraged to give priority to evaluate a child suspected of needing special education if the evaluation cannot be done by public education personnel.

In order that all available funds can be allocated as needed, all categorical funds to the Division of Exceptional Children of the Department of Public Instruction shall become noncategorical funds for children with special needs.

All programs of educational and related services for children with special needs shall be reviewed by staff of the Division for Exceptional Children for compliance with State Board rules, to prevent duplication of services and to make sure that programs are provided for all children with special needs.

PART IX.—SPECIAL PROVISIONS—COMMUNITY COLLEGES —FULL-TIME EQUIVALENT TEACHING POSITIONS

Sec. 27. For the purpose of determining the Community College system-wide number of full-time equivalent (FTE) teaching positions each year, the total curriculum and extension full-time equivalent student enrollment shall be divided by 22.

Sec. 27.1. Section 34 of 1977 Session Laws Chapter 802 is repealed.

PART X.—SPECIAL PROVISIONS—HIGHER EDUCATION

— — EDUCATIONAL TELEVISION NETWORK
IMPROVEMENTS/APPRN. & REPORT

Sec. 28. Funds are provided in Section 4 of this act (Capital Improvements—General Fund) to The University of North Carolina—General Administration to operate new television facilities (provided in item 06. under Board of Governors of The University of North Carolina) aimed at extending and improving the broadcast capabilities of the UNC Television Network.

Any additional moneys which may be received by The University through federal or private grants to aid in constructing or operating the improvements referred to in this section shall, to the extent possible, be used to supplant the General Fund appropriations provided for such improvements. Appropriations which are supplanted will revert to the General Fund.

The Board of Governors is hereby directed to submit progress reports to the Governor, Lt. Governor, Speaker of the House of Representatives, and each member of the Advisory Budget Commission at six-month intervals to cover not only the physical and operational aspects of the new and improved facilities, but also the number of school pupils and other persons added to the educational television network audience or gaining improved reception.

—AID TO PRIVATE COLLEGES

Sec. 29. Funds are appropriated in Section 2 of this act to grant each full-time North Carolina undergraduate student attending an approved private educational institution located within the State, as defined in G.S. 116-22, the sum of four hundred dollars (\$400.00) per academic year in 1978-79. These funds shall be distributed in accordance with Section 38.1 of Chapter 802 of the 1977 Session Laws.

In the event it is determined that there are not sufficient funds to provide each eligible student with a full grant, each eligible student shall receive a reduced but equal share of funds then available for the remainder of the academic year within the fiscal period covered by the current appropriation. Any remaining funds shall revert to the General Fund.

—INSTITUTIONAL TRUST FUNDS/UNIVERSITY OF NORTH
CAROLINA

Sec. 30. Chapter 116 of the General Statutes is amended by inserting a new section as follows:

“§ 116-36.1. *Regulation of institutional trust funds.*—(a) The board is responsible for the custody and management of the trust funds of The University of North Carolina and of each institution. The board shall adopt uniform policies and procedures applicable to the administration of these funds which shall assure that the receipt and expenditure of such funds is properly authorized and that the funds are appropriately accounted for. The board may delegate authority, through the president, to the respective chancellors of the institutions when such delegation is necessary or prudent to enable the institution to function in a proper and expeditious manner.

(b) Trust funds shall be deposited with the State Treasurer who shall hold them in trust in separate accounts in the name of The University of North Carolina and of each institution. The cash balances of these accounts may be pooled for investment purposes, but investment earnings shall be credited pro rata to each participating account. For purposes of distribution of investment earnings, all trust funds of an institution shall be deemed a single account.

(c) Moneys deposited with the State Treasurer in trust fund accounts pursuant to this section, and investment earnings thereon, are available for expenditure by each institution without further authorization from the General Assembly.

(d) Trust funds are subject to the oversight of the State Auditor pursuant to G.S. 147-58 but are not subject to the provisions of the Executive Budget Act except for capital improvements projects which shall be authorized and executed in accordance with G.S. 143-18.1.

(e) Each institution shall submit such reports or other information concerning its trust fund accounts as may be required by the Director of the Budget.

(f) Trust funds or the investment income therefrom shall not take the place of State appropriations or any part thereof, but any portion of these funds available for general institutional purposes shall be used to supplement State appropriations to the end that the institution may improve and increase its functions, may enlarge its areas of service, and may become more useful to a greater number of people.

(g) As used in this section, 'trust funds' means:

- (1) moneys, or the proceeds of other forms of property, received by an institution as gifts, devises, or bequests that are neither presumed nor designated to be gifts, devises, or bequests to the endowment fund of the institution;
- (2) moneys received by an institution pursuant to grants from, or contracts with, the United States Government or any agency or instrumentality thereof;
- (3) moneys received by an institution pursuant to grants from, or contracts with, any State agencies, any political subdivisions of the State, any other states or nations or political subdivisions thereof, or any private entities whereby the institution undertakes, subject to terms and conditions specified by the entity providing the moneys, to conduct research, training or public service programs, or to provide financial aid to students;
- (4) moneys collected by an institution to support extracurricular activities of students of the institution;
- (5) moneys received from or for the operation by an institution of activities established for the benefit of scholarship funds or student activity programs;
- (6) moneys received from or for the operation by an institution of any of its self-supporting auxiliary enterprises except student auxiliary services identified in Section 116-36.3;
- (7) moneys received by an institution in respect to fees and other payments for services rendered by medical, dental or other health care professionals under an organized practice plan approved by the institution or under a contractual agreement between the institution and a hospital or other health care provider.

(h) Notwithstanding the provisions of subsection (b) of this section, the board may designate as the official depository of the funds identified in subsection (g)(7) of this section one or more banks or trust companies in this State. The amount of funds on deposit in an official depository shall be fully secured by deposit insurance, surety bonds, or investment securities of such nature, in such

amounts, and in such manner as is prescribed by the State Treasurer for the security of public deposits generally. The available cash balance of funds deposited pursuant to this subsection shall be invested in interest-bearing deposits and investments so that the rate of return equals that realized from the investment of State funds generally.

(i) The cash balances on hand as of June 30, 1978, and all future receipts accruing thereafter, of funds identified in this section are hereby appropriated to the use of The University of North Carolina and its constituent institutions."

—SPECIAL FUNDS/UNIVERSITY OF NORTH CAROLINA

Sec. 31. Chapter 116 of the General Statutes is amended by inserting a new section as follows:

"§ 116-36.2. *Regulation of special funds of individual institutions.*—(a) Notwithstanding any provisions of law other than G.S. 147-58, the chancellor of each institution is responsible for the custody and management of the special funds of that institution. The board shall adopt uniform policies and procedures applicable to the administration of these funds which shall assure that the receipt and expenditure of such funds is properly authorized and that the funds are appropriately accounted for.

(b) As used in this section, 'special funds of individual institutions' means:

- (1) moneys received from or for the operation by an institution of its program of intercollegiate athletics;
- (2) moneys held by an institution as fiscal agent for individual students, faculty, staff members, and organizations."

—STUDENT AUXILIARY ENTERPRISE FUNDS/UNIV. OF NORTH CAROLINA

Sec. 32. Chapter 116 of the General Statutes is amended by inserting a new section as follows:

"§ 116-36.3. *Regulation of institutional student auxiliary enterprise funds.*—

(a) The chancellor of each institution, subject to uniform policies and procedures adopted by the Board of Governors, is responsible for the custody and management of the institutional student auxiliary enterprise funds of that institution. The custody and management of such funds is subject to the provisions of the Executive Budget Act and to the oversight of the State Auditor pursuant to G.S. 147-58.

(b) Institutional student auxiliary enterprise funds shall be deposited with the State Treasurer who shall hold them in trust in separate accounts in the name of The University of North Carolina and of each institution. The cash balances of these accounts may be pooled for investment purposes, but investment earnings shall be credited pro rata to each participating account. For the purpose of distribution of investment earnings, all student auxiliary enterprise funds of an institution shall be deemed a single account.

(c) As used in this section, "institutional student auxiliary enterprise funds" means moneys received from or for the operation by an institution of the following self-supporting student auxiliary services: housing; food; health and laundry."

—DEPOSIT OF FEDERAL FUNDS/UNIVERSITY OF NORTH CAROLINA

Sec. 33. Section 15.26 of 1977 Session Laws Chapter 802 is amended by placing a comma at the end of the next to last sentence and adding the phrase, "except as otherwise provided by G.S. 116-36.1".

CHAPTER 1136 Session Laws—1977

Sec. 33.1. The last sentence of Section 15.26 of 1977 Session Laws Chapter 802 is repealed.

—ABC APPROPRIATIONS MODIFICATIONS/N. C. MEMORIAL HOSPITAL

Sec. 34. Section 9 of 1977 Session Laws Chapter 681 is rewritten to read as follows:

“The Advisory Budget Commission may, when in its opinion it is in the best interest of the State to do so, and upon the request of the pertinent department, agency, or institution, authorize an increase or decrease in size and scope of a direct or self-liquidating capital appropriation. Changes to a project or projects enumerated in this act may come from gifts, federal or private grants, excess patient receipts collected above those budgeted by the North Carolina Memorial Hospital, special fund receipts, or, from within the funds appropriated for capital improvements in this act to that department, agency, or institution.”

Sec. 35. Section 10 of 1977 Session Laws Chapter 681 is rewritten to read as follows:

“The Governor and the Advisory Budget Commission may, when in their opinion it is in the best interest of the State to do so, and upon the request of a department, institution, or agency, authorize the construction of a capital improvement project not specifically provided for or authorized by the General Assembly. Funds which become available by gifts, excess patient receipts collected above those budgeted by the North Carolina Memorial Hospital, federal or private grants, or receipts becoming a part of special funds by act of the General Assembly may be used for this purpose. No funds appropriated under this act for a specific capital improvement shall be used or expended for any capital improvement not specifically provided for or authorized by the General Assembly.”

PART XI.—SPECIAL PROVISIONS—GEN. GOVT. & TRANS., & OTHER —STATE AUDITOR/AUDITS PERFORMED FOR FEDERAL AGENCIES

Sec. 36. G.S. 147-58 is amended by adding a new subsection to be designated subsection (24) to read as follows:

“(24) The Auditor is authorized to contract with federal audit agencies, or any governmental agency, on a cost reimbursable basis, for the Auditor to perform audits of federal grants and programs administered by the State departments and institutions in accordance with agreements negotiated between the Auditor and the contracting federal audit agencies or any governmental agency. In instances where the grantee State agency shall subgrant these federal funds to local governments, regional councils of government and other local groups or private or semi-private institutions or agencies, the Auditor shall have the authority to examine the books and records of these subgrantees to the extent necessary to determine eligibility and proper use in accordance with State and federal laws and regulations.

The Auditor shall charge and collect from the contracting federal audit agencies, or any governmental agencies, the actual cost of all the audits of the grants and programs contracted by him to do. Amounts collected under these arrangements shall be deposited in the State Treasury and be budgeted in the Department of State Auditor and shall be available to hire sufficient personnel

to perform these contracted audits and to pay for related travel, supplies and other necessary expenses.”

—JUVENILE PROBATION AND AFTERCARE/FUNDING DELETED

Sec. 37. Section 50.50 (Juvenile Probation and Aftercare/Funds) of 1977 Session Laws Chapter 802 is repealed.

—TRAVEL ALLOWANCE FOR STATE EMPLOYEES

Sec. 38. To increase the travel allowance per mile for State employees there is appropriated in Section 2 of this act seven hundred thousand dollars (\$700,000) from the General Fund, and in Section 3 of this act fifty thousand dollars (\$50,000) from the Highway Fund. These funds may be transferred to travel subheads based upon need as determined by the Director of the Budget.

Sec. 38.1. G.S. 138-6(a)(1), as it appears in the 1977 Cumulative Supplement to Volume 3C of the General Statutes, is amended by deleting the words and figures “fifteen cents (15¢)” and inserting in lieu thereof the words and figures “seventeen cents (17¢)”.

—EXPENSE ALLOWANCE/GOVERNOR

Sec. 39. G.S. 147-11, as it appears in 1974 Replacement Volume 3C of the General Statutes, is amended by deleting in the second sentence the words and figures “five thousand dollars (\$5,000)” and inserting in lieu thereof the words and figures “ten thousand dollars (\$10,000)”.

—EXPENSE ALLOWANCE/LIEUTENANT GOVERNOR

Sec. 40. G.S. 147-33, as it appears in the 1977 Cumulative Supplement to Volume 3C of the General Statutes, is amended by deleting in the second sentence the words and figures “four thousand dollars (\$4,000)” and inserting in lieu thereof the words and figures “ten thousand dollars (\$10,000)”.

PART XII.—SPECIAL PROVISIONS—APPROPRIATIONS ACT

—RETAIN 1977 APPROPRIATIONS LIMITATIONS AND DIRECTIONS

Sec. 41. Except where expressly repealed by this act, the provisions of 1977 Session Laws Chapter 681, and the provisions of 1977 Session Laws Chapter 802, shall remain in effect.

Sec. 42. Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed, the limitations and directions in 1977 Session Laws Chapter 681 and Chapter 802 that applied to 1978-79 appropriations to particular agencies or for particular purposes shall apply to the newly enacted appropriations of this act to those same particular agencies and for those same particular purposes.

—EXECUTIVE BUDGET ACT REFERENCE

Sec. 43. The provisions of the Executive Budget Act, Chapter 143, Article 1, of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

—EFFECT OF MOST LIMITATIONS AND DIRECTIONS IN TEXT/ONLY 78-79

Sec. 44. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1978-79 fiscal year, the textual provisions of this act shall apply only to funds appropriated for, and activities occurring during, the 1978-79 fiscal year.

—SEVERABILITY CLAUSE

Sec. 45. If any section or provision of this act is declared unconstitutional or invalid by the courts, the decision of the court shall not

CHAPTER 1136 Session Laws—1977

affect the validity of the act as a whole or the validity of any part other than the part declared to be unconstitutional or invalid.

—CAPTIONS NOT LIMIT TEXT/ONLY FOR REFERENCE

Sec. 46. The series of captions used in this act (the descriptive phrases in all capital letters identified by parts numbered with Roman numerals or preceded by five hyphens) are inserted for convenience and reference only, and they in no way define, limit, or prescribe the scope or application of the text of the act.

—EFFECTIVE DATE

Sec. 47. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 14th day of June, 1978.

S. B. 949 CHAPTER 1137

AN ACT TO CONTINUE THE LAW ENFORCEMENT OFFICERS LIABILITY INSURANCE STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The Law Enforcement Officers Liability Insurance Study Commission created by Chapter 979 of the 1977 Session Laws is hereby continued.

Sec. 2. The commission shall submit written reports and recommendations to the 1979 Session of the General Assembly.

Sec. 3. The unexpended balance of the appropriation to the commission is continued for the use of the commission until its termination.

Sec. 4. The Law Enforcement Officers Liability Insurance Study Commission shall terminate on July 1, 1979.

Sec. 5. In addition to the powers, authority and responsibility granted to the commission by Chapter 979 of the 1977 Session Laws, the commission is authorized and empowered to contact members of the insurance industry to determine the feasibility of providing liability insurance coverage to public officers and employees and to determine the probable cost of providing such coverage.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of June, 1978.

S. B. 735 CHAPTER 1138

AN ACT TO ALLOW CITIES AND COUNTIES WITH ABC STORES TO VOTE ON THE SALE OF MIXED BEVERAGES IN SOCIAL ESTABLISHMENTS AND RESTAURANTS SEATING AT LEAST 36.

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-2 is amended by rewriting subsection (6) to read as follows:

“(6) The term ‘mixed beverage’ means a drink composed in whole or in part of alcoholic beverage and served to an individual in a quantity less than the quantity contained in a closed package, purchased for consumption on premises licensed for mixed beverages by the State Board of Alcoholic Control.”

Sec. 2. Subsection (a) of G.S. 18A-8 is amended by rewriting subdivisions (3) and (4) to read as follows:

“(3) any person, firm, or corporation knowingly to sell or give any alcoholic beverages or mixed beverages to any person under 21 years of age; or

(4) any person under 21 years of age to purchase or possess, or for anyone to aid or abet such a person in purchasing, any alcoholic beverages or mixed beverages.”

Sec. 3. G.S. 18A-15(3)c. is amended by adding the following new subdivision 3 to read as follows:

“3. Ten dollars (\$10.00) on each gallon, and a proportional sum on any lesser amount, of spirituous liquor sold to the holder of a mixed beverages permit for the purpose of resale as mixed beverages. This addition to the retail price shall not be subject to the tax levied by G.S. 105-113.93. The clear proceeds from this addition to the retail price of spirituous liquor shall be retained by the respective county or municipal ABC boards in the same manner as other profits derived from the sale of spirituous liquors, except that ten percent (10%) of the proceeds shall be directed to the Department of Human Resources for rehabilitation of alcoholics and research into the causes of alcoholism.”

Sec. 4. G.S. 18A-15 is further amended by adding the following new subsection (18):

“(18) To adopt rules for the special labelling of containers of alcoholic beverages sold for resale in mixed beverages, and to require the holders of mixed beverages permit to maintain records of alcoholic beverages purchased and sold as mixed beverages and to maintain records of monthly sales of mixed beverages separate from other sales.”

Sec. 5. G.S. 18A-25 is amended by rewriting subsection (b) to read as follows:

“(b) The possession for sale, or sales, of any liquor purchased from any county or municipal store, except as authorized by this Chapter, is prohibited.”

Sec. 6. G.S. 18A-29 is amended by rewriting the first sentence of subsection (a) to read as follows:

“The willful transportation of spirituous liquors within, into, or through the State of North Carolina in quantities in excess of one gallon (or five gallons with a permit) is prohibited except for delivery to federal reservations to which has been ceded exclusive jurisdiction by the State of North Carolina, for delivery to an ABC store or board, for transport through this State to another state, or for delivery to premises holding a mixed beverages permit under the conditions set forth in this Chapter.”

Sec. 7. Chapter 18A of the General Statutes is amended by adding the following new Section 18A-29.1:

“§ 18A-29.1. *Transportation of alcoholic beverages by holder of mixed beverages permit.*—(a) A person holding a mixed beverages permit, or his designated employee, may purchase, possess, and transport more than one gallon of alcoholic beverages in containers not smaller than one-fifth gallon if he has in his possession a mixed beverages purchase-transportation permit issued under this section and complies with the provisions of this section and if none of the containers of the alcoholic beverages have had the cap or seal opened or broken.

(b) The mixed beverages purchase-transportation permit may be issued only by the chairman, a member, or the general manager or supervisor of the local

CHAPTER 1138 Session Laws—1977

alcoholic beverage control board for the county or city within which the premises holding the mixed beverages permit is located, and may authorize the purchase and transportation of alcoholic beverages only within that county or city. The local ABC board may designate a special store within the system to sell alcoholic beverages to be used in mixed beverages.

(c) The purchase-transportation permit shall authorize the holder of the mixed beverages permit, or his designated employee, to purchase and transport the quantity of alcoholic beverages stated on the permit. The following information shall appear on the face of the permit:

- (1) the name and address of the holder of the mixed beverages permit and the registration number of the premises assigned by the State ABC Board;
- (2) the name of the employee authorized to purchase and transport the alcoholic beverages;
- (3) the name and location of the store where the purchase is to be made;
- (4) the date issued and the expiration date;
- (5) the destination;
- (6) the signature of the persons issuing and receiving the permit;
- (7) a statement that the permit is valid for only one purchase on the date shown and that the permit must accompany the alcoholic beverages during transit and that both the alcoholic beverages and the permit must be displayed to any law enforcement officer upon request; and
- (8) such additional information as may be required by the State ABC Board.

In addition, the permit shall include a space for listing the serial number of each case or carton of alcoholic beverages purchased, to be completed at the time of the sale.

(d) The permit shall be valid for only one purchase and shall expire at 9:30 p.m. on the date shown on it. The permit must accompany the alcoholic beverages during transit and both the alcoholic beverages and permit must be displayed to any law enforcement officer upon request."

Sec. 8. G.S. 18A-30 is amended in line 7 by adding between the word "barter" and the comma the following: "(except where authorized by law)".

Sec. 9. G.S. 18A-30(5) is amended by rewriting subdivisions c., d., and e. to read as follows:

"c. Any person to possess or consume any alcoholic beverages or mixed beverages upon any of the premises designated under subsections (2), (3), (4) or (7) of this section, unless there is conspicuously displayed on the premises a valid permit or notice from the State Board of Alcoholic Control.

d. Any person, association, or corporation to permit any alcoholic beverages or mixed beverages to be possessed or consumed upon any premises not authorized by this Chapter.

e. Any person to possess or consume any alcoholic beverages or mixed beverages upon any premises where such possession or consumption is not authorized by law, or where the said person has been forbidden to possess or consume alcoholic beverages by the owner, operator, or person in charge of the premises."

Sec. 10. G.S. 18A-30 is further amended by rewriting subsection (6) to read as follows:

“(6) Hours for sale and consumption. It shall be unlawful for any mixed beverages to be sold on any premises having a mixed beverages permit between the hours of 1:00 a.m. and 7:00 a.m. and it shall be unlawful for any alcoholic beverages or mixed beverages to be consumed on any premises having a permit issued under the provisions of this section between the hours of 1:30 a.m. and 7:00 a.m. However, during the period commencing on the last Sunday of April of each year and ending on the last Sunday of October of each year mixed beverages may be sold until 2:00 a.m. and mixed beverages and alcoholic beverages may be consumed on the premises until 2:30 a.m. Subsequently, on Sundays, sales of mixed beverages and consumption of mixed beverages and alcoholic beverages may not resume until 1:00 p.m.”

Sec. 11. G.S. 18A-30 is further amended by adding the following new subsection (7):

“(7) Sale of mixed beverages. The State Board of Alcoholic Control may issue a permit allowing the possession of more than one gallon of alcoholic beverages and the on-premises sale of mixed beverages by an establishment meeting the requirements of subsection (2) or (4) of this section, if the sale of mixed beverages has been authorized in the city or county within which the premises is located. If the premises issued the permit for the sale of mixed beverages also has a permit as a social establishment, the provisions of subdivisions c. and d. of subsection (2) shall not apply to alcoholic beverages lawfully possessed on the premises for resale as mixed beverages.”

Sec. 12. G.S. 18A-30 is further amended by adding the following new subsection (8):

“(8) Prohibited acts of mixed beverages permit holders. It shall be unlawful for the holder of a permit for the sale of mixed beverages, or for any servant, agent or employee of the permit holder to:

a. refill any alcoholic beverage container with any other intoxicating liquor for use on the licensed premises;

b. transfer from one container to another any special label, seal or device required on containers of alcoholic beverages purchased for resale as mixed beverages;

c. knowingly sell mixed beverages to any person who is intoxicated;

d. sell, offer for sale, or possess for sale on the licensed premises any intoxicating liquor which the premises is not licensed to sell;

e. knowingly permit the possession or consumption on the licensed premises of any intoxicating liquor for which no permit is held if a permit is required by law for the possession or consumption of that intoxicating liquor;

f. sell mixed beverages, or allow mixed beverages to be consumed, on the licensed premises on any day or at any time when such sale or consumption is prohibited by law;

g. allow on the licensed premises any disorderly conduct, breach of peace, or any lewd, immoral or improper entertainment, conduct or practices; or allow on the licensed premises any conduct or entertainment by nude performers or entertainers, or persons wearing transparent clothing, or performances by any male or female performers simulating sexual acts or sexual activities with any person, object, device or other paraphernalia.”

CHAPTER 1138 Session Laws—1977

Sec. 13. G.S. 18A-31(b) is amended by deleting the present subdivision (6) and by adding the following new subdivisions (6) and (7):

“(6) Five hundred dollars (\$500.00) for the sale of mixed beverages;

(7) The annual renewal fees for such permits shall be twenty-five percent (25%) of the original fee herein set forth except that the annual renewal fee for a permit for the sale of mixed beverages shall be fifty percent (50%) of the original fee.”

Sec. 13.1. G.S. 18A-31 is amended by adding the following new subsection (e) to the end of that section:

“(e) No permit may be issued for the purpose defined in G.S. 18A-30(4) in a county or city in which the sale of mixed beverages is authorized.”

Sec. 14. G.S. 18A-40(c) is amended in lines 1 and 2 of that subsection by inserting between the word “permit” and the word “shall” the following words and punctuation: “, or mixed beverage permit,”.

Sec. 15. G.S. 18A-51 is amended by designating the present section as subsection (a) and by adding a new subsection (b) to read as follows:

“(b) In any county or city where ABC stores have been established, an election may be called on the question of whether the on-premises sale of mixed beverages should be allowed in social establishments and restaurants. The election shall be called by the board of elections of the county upon, and only upon, the written request of the governing body of the county or a city where ABC stores have been established or upon petition of twenty percent (20%) of the voters registered in that county or city. The provisions of this section with regard to ABC store elections shall apply to the mixed beverages elections except that the propositions to be voted upon shall be the following:

FOR the sale of mixed beverages in social establishments and restaurants.

AGAINST the sale of mixed beverages in social establishments and restaurants.

If a majority of the voters voting in the election vote for the sale of mixed beverages, the sale of mixed beverages shall be permitted in that county or city as provided in G.S. 18A-30. If a county or city has not yet authorized the establishment of ABC stores, the election on the sale of mixed beverages may be called for the same time as the election on ABC stores. The sale of mixed beverages may not continue at any time after a county or city has voted to no longer operate ABC stores and the previously authorized stores have closed.”

Sec. 16. G.S. 18A-54 is amended by adding after the word and punctuation “unfortified”) in line 4 of subsection (b) the following words: “or mixed beverages”.

Sec. 17. If any provision of this act or the application of it to any person or circumstance is held invalid, the invalidity shall not affect other portions of the act or applications which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable. In particular, if the provisions of this act concerning the sales of mixed beverages in cities are held to be invalid, such invalidity shall not affect the provisions concerning the sale of mixed beverages in counties, and vice versa.

Sec. 18. On the effective date of Chapter 176 of the 1977 Session Laws, the words “gallon” and “one gallon” as they appear in Sections 3, 6, 7 and 11 of this act shall be changed to “four liters”, the words “five gallons” as they appear in Section 6 of this act shall be changed to “twenty liters”, and the words “one-

fifth gallon” as they appear in Section 7 of this act shall be changed to “750 milliliters”.

Sec. 19. G.S. 18A-13 is repealed.

Sec. 20. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 15th day of June, 1978.

H. B. 1390

CHAPTER 1139

AN ACT TO ALLOW MEMBERS AND EMPLOYEES OF A REDEVELOPMENT COMMISSION TO ACQUIRE PROPERTY IN A REDEVELOPMENT AREA FOR THEIR PRINCIPAL RESIDENCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-511 is hereby rewritten to read as follows:

“§ 160A-511. *Interest of members or employees.*—No member or employee of a commission shall acquire any interest, direct or indirect, in any redevelopment project or in any property included or planned to be included in any redevelopment area, or in any area which he may have reason to believe may be certified to be a redevelopment area, nor shall he have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used by a commission, or in any contract with a redeveloper or prospective redeveloper relating, directly or indirectly, to any redevelopment project, except that a member or employee of a commission may acquire property in a residential redevelopment area from a person or entity other than the commission after the residential redevelopment plan for that area is adopted if:

(a) the primary purpose of acquisition is to occupy the property as his principal residence;

(b) the redevelopment plan does not provide for acquisition of such property by the commission; and

(c) prior to acquiring title to the property, the member or employee shall have disclosed in writing to the commission and to the local governing body his intent to acquire the property and to occupy the property as his principal residence.

Except as authorized herein, the acquisition of any such interest in a redevelopment project or in any such property or contract shall constitute misconduct in office. If any member or employee of a commission shall have already owned or controlled within the preceding two years any interest, direct or indirect, in any property later included or planned to be included in any redevelopment project, under the jurisdiction of the commission, or has any such interest in any contract for material or services to be furnished or used in connection with any redevelopment project, he shall disclose the same in writing to the commission and to the local governing body. Any disclosure required herein shall be entered in writing upon the minute books of the commission. Failure to make disclosure shall constitute misconduct in office.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1978.

H. B. 1665 **CHAPTER 1140**

**AN ACT TO ALLOW CERTAIN NON-RESIDENTS TO ATTEND THE
PUBLIC SCHOOLS OF COLUMBUS COUNTY, NORTH CAROLINA.**

The General Assembly of North Carolina enacts:

Section 1. Chapter 115 of the General Statutes is hereby amended by adding a new section immediately following G.S. 115-163, and immediately preceding G.S. 115-164, to be numbered G.S. 115-163.1, and to read as follows:

“§ 115-163.1. *Certain non-residents permitted to attend schools.* The Board of Education of Columbus County, having a boundary contiguous with that of a city or county school unit of another state, may, in its discretion, enroll pupils residing in such other contiguous school unit. Pupils so enrolled shall be otherwise qualified for admission to the public schools of this State, and shall pay an annual tuition as determined in the sole discretion of the local board of education.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1978.

S. B. 950 **CHAPTER 1141**

AN ACT TO CREATE CAROLINA BEACH AIRPORT AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. There is hereby created the Carolina Beach Airport Authority, hereinafter referred to as the Airport Authority, which shall be a body corporate and politic and which shall have the powers hereinafter set forth.

Sec. 2. The Airport Authority shall consist of five members; three members, who shall reside within the zoning jurisdiction of the Town of Carolina Beach, shall be appointed by the Mayor of Carolina Beach subject to the approval of the Carolina Beach Board of Commissioners. The terms of office shall be as follows: Two members, chosen by lot, shall serve four years; one member, chosen by lot from the remaining three members, shall serve three years; one member, chosen by lot from the remaining two members, shall serve two years; the remaining member shall serve one year. Upon the occurrence of any vacancy on the Airport Authority, or in the event a member of the Airport Authority becomes ineligible because he ceases to reside within the zoning jurisdiction from which he was appointed, said vacancy shall be filled by the same appointing procedure as was used to appoint the vacating member, except that the newly appointed member shall serve only the unexpired term of the vacating member. The Airport Authority shall elect a chairman from among its membership, and he shall serve as chairman for two years or until his term expires.

Sec. 3. The Airport Authority shall adopt suitable bylaws for the conduct of business, and shall make provision for the recording of minutes of all meetings.

Sec. 4. The Airport Authority shall have the following powers:

a. To purchase, lease, construct, maintain, improve, equip, operate, and regulate an airport for the use of aircraft or for any other purposes, and to purchase, lease, or otherwise hold such real or personal property as may, at the

discretion of the Airport Authority, be deemed necessary to the operation of said airport.

b. To sue or be sued in the name of the Airport Authority, to make such contracts as may be necessary for the exercise of its powers, and to acquire by purchase or otherwise any existing lease, leasehold right, or other interest in any existing airport.

c. To charge and collect reasonable fees and rents for the use of the airport or for services rendered in the operation thereof.

d. To establish and enforce such regulations as it may deem necessary for the proper maintenance and operation of the airport, and to fix penalties for violation of said regulations, except that said regulations shall not conflict with the laws of the State of North Carolina, nor with the Federal Aviation Regulations.

e. To sell, lease, rent, or otherwise dispose of any property belonging to the Airport Authority.

f. To contract, covenant, or otherwise establish agreement with one or more second parties, under which agreement said party or parties shall manage, supervise, or operate the airport for a term not to exceed 25 years in return for such compensation as may be agreed to by the Airport Authority, and subject to such surety as may be required by the Airport Authority.

g. To lease to one or more second parties for a term not exceeding 25 years any or all real or personal property held by the Airport Authority in order to assure the maintenance, operation, or construction of the airport or any part thereof.

h. To employ such agents, engineers, or attorneys as may be necessary, in the judgment of the Airport Authority, to carry out the provisions of this act.

i. To accept and to use for any of the purposes set forth in this act gifts, grants, bequests, or donations from the individuals, businesses, or from federal, State, municipal, or county governments, or agencies thereof.

Sec. 5. The Airport Authority shall make annual reports to the Board of Commissioners of the Town of Carolina Beach, setting forth in detail the operations and transactions conducted by it pursuant to this act. The Airport Authority shall have no power to pledge the credit of said town, or to impose any obligation upon said town, nor shall said town be liable in tort for any act or omission of the Airport Authority.

Sec. 6. The Airport Authority shall meet at such times and in such places as the chairman may designate, provided that the Airport Authority shall meet at least once during each six-month period. All decisions of the authority shall require majority approval of those present and voting. Provided that funds are available, the Airport Authority may pay the actual expenses incurred by its members while said members are conducting the business of the Airport Authority pursuant to this act.

Sec. 7. It is the specific intent of this legislation to authorize, but not to compel, the creation of the Airport Authority, and none of the powers granted by any section of this act shall become effective unless and until initial appointments are made to the Airport Authority in accordance with the procedures set forth in Section 2.

Sec. 8. All sections, subsections, and parts of this act are declared severable, and a finding that any section, subsection, or part of this act is

CHAPTER 1141 Session Laws—1977

unconstitutional shall not affect the validity of remaining sections, subsections, or parts.

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1978.

S. B. 959 CHAPTER 1142

AN ACT TO REGULATE FOX HUNTING IN MONTGOMERY COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There shall be no closed season for hunting foxes with dogs or guns in Montgomery County.

Sec. 2. It shall be unlawful in Montgomery County to buy or sell a dead fox, fox pelt or other part of a fox. Any person violating this section shall be guilty of a misdemeanor, punishable by a fine of one hundred dollars (\$100.00) or 60 days' imprisonment, or both.

Sec. 3. It shall be lawful in Montgomery County, at any time, day or night, to take or attempt to take foxes with dogs.

Sec. 4. Chapter 159 of the Public-Local Laws of 1935 and Chapter 365 of the 1943 Session Laws are hereby repealed.

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1978.

S. B. 974 CHAPTER 1143

AN ACT RELATING TO LEASING OF PROPERTY OWNED BY THE TOWN OF LIBERTY.

The General Assembly of North Carolina enacts:

Section 1. Any property owned by the Town of Liberty, whether originally acquired for governmental or other purposes, may be leased by the town council for a term not to exceed 10 years if, in the opinion of the council, the property will not be needed by the city during the period of the lease. A lease may be made by the council after notice has been given in the manner and for the length of time prescribed by the council. In any case where the lessee enters into a binding obligation to erect, upon property owned by the city, improvements to cost not less than one hundred thousand dollars (\$100,000), the council may rent or lease that property for a term not to exceed 40 years upon such terms as in the judgment of the council will promote the best interests of the town. Any property or portion thereof owned by the town may be reasonably improved and renovated by the town either at its own expense or by mutual joint arrangement with other parties.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1978.

S. B. 952

CHAPTER 1144

AN ACT TO PROVIDE THAT ARTICLE 9B OF CHAPTER 44 OF THE GENERAL STATUTES RELATING TO ATTACHMENT OR GARNISHMENT AND LIEN FOR AMBULANCE SERVICES SHALL APPLY IN HARNETT COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 44-51.8 is amended by adding the word "Harnett" after the word "Haywood" and before the word "Henderson".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1978.

S. B. 638

CHAPTER 1145

AN ACT TO AMEND THE FEE WHICH MEDICAL EXAMINERS RECEIVE FOR MAKING INVESTIGATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130-199 is hereby amended by deleting the words "of twenty-five dollars (\$25.00)," from line 12 and by adding the following sentence immediately before the last sentence of the section:

"The fee shall be in an amount determined by the secretary to be reasonable and appropriate but not to exceed fifty dollars (\$50.00)."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1978.

S. B. 783

CHAPTER 1146

AN ACT TO AMEND G.S. 62-140 TO PERMIT THE PAYMENT OF CERTAIN COMMISSIONS TO MOTELS, HOTELS, AND HOSPITALS BY TELEPHONE UTILITIES FOR THE HANDLING OF INTRASTATE TELEPHONE TOLL CALLS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-140(a) as the same appears in 1975 Replacement Volume 2B of the General Statutes is amended by striking out the period (.) at the end of subsection (a) and inserting in lieu thereof a semicolon (;) and further by adding the following:

"provided that it shall not be an unreasonable preference or advantage or constitute discrimination against any person, firm or corporation or general rate payer for telephone utilities to contract with motels, hotels and hospitals to pay reasonable commissions in connection with the handling of intrastate toll calls charged to a guest or patient and collected by the motel, hotel or hospital; provided further, that payment of such commissions shall be in accordance with uniform tariffs which shall be subject to the approval of the commission."

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1978.

S. B. 986

CHAPTER 1147

AN ACT TO MAKE TECHNICAL CORRECTIONS TO CHAPTER 711 OF THE 1977 SESSION LAWS AND TO RESTORE RESTITUTION PROVISIONS ENACTED BY CHAPTERS 364 AND 614 OF THE 1977 SESSION LAWS THAT WERE INADVERTENTLY REPEALED BY CHAPTER 711 OF THE 1977 SESSION LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-1021(d) as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is hereby rewritten to read as follows:

“(d) When restitution or reparation by the defendant is a part of the plea arrangement agreement, if the judge concurs in the proposed disposition he may order that restitution or reparation be made as a condition of special probation pursuant to the provisions of G.S. 15A-1351, or probation pursuant to the provisions of G.S. 15A-1343(d). If an active sentence is imposed the court may order that the defendant make restitution or reparation out of any earnings gained by the defendant if he attains work release privileges under the provisions of G.S. 148-33.1, or that restitution or reparation be imposed as a condition of parole in accordance with the provisions of G.S. 148-57.1. The order providing for restitution or reparation shall be in accordance with the applicable provisions of G.S. 15A-1343(d).

When restitution or reparation is ordered as a part of a plea arrangement or a condition of parole or work release privileges, the sentencing court shall enter as a part of the commitment that restitution or reparation is ordered as a part of a plea arrangement. The Administrative Office of the Courts shall prepare and distribute forms which provide for ample space to make restitution or reparation orders incident to commitments.”

Sec. 2. G.S. 15A-1221 as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended by adding “(a)” on the first line just prior to the word “The” and by adding a new subsection (b) to read as follows:

“(b) At no time during the selection of the jury or during trial may any person read the indictment to the prospective jurors or to the jury.”

Sec. 3. G.S. 15A-1236(a)(3) as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is hereby amended by deleting the “;” after the word “case” and by adding after the word “case” the phrase “until they begin their deliberations.”

Sec. 4. G.S. 15A-1301 is amended by adding the following sentence at the end thereof:

“When the commitment is to a sentence of imprisonment, the commitment must include the identification of the offense or offenses for which the defendant was convicted and, if the sentences are consecutive, the maximum sentence allowed by law upon conviction of each offense, and, if the sentences are concurrent or consolidated, the longest of the maximum sentences allowed by law upon conviction of any of the offenses.”

Sec. 4A. G.S. 15A-1341(a), as it appears in the 1977 Cumulative Supplement to Volume 1C, is rewritten to read as follows:

“§ 15A-1341. *Probation generally.*—(a) Use of Probation. A person who has been convicted of any noncapital criminal offense not punishable by a minimum

term of life imprisonment or a minimum term without benefit of probation may be placed on probation as provided by this Article.”

Sec. 5. G.S. 15A-1341(b) as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is amended by adding the words “or assignment to” after the word “by” in line 3.

Sec. 6. G.S. 15A-1342(d) as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is amended to delete the words “all probationers” found on lines 1 and 2 and to substitute for them the words “the cases of each probationer” and by adding a new sentence “The probation officer must give reasonable notice to the probationer, and the probationer may appear.” after “years.” on line 4.

Sec. 7. G.S. 15A-1342(e) as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is amended to delete the word “Probationers” on line 1 and to substitute for it the words “Supervised probationers”.

Sec. 8. G.S. 15A-1343(b)(6) as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is rewritten to read as follows:

“(6) Make restitution or reparation as provided in subsection (d).”

Sec. 9. G.S. 15A-1343(b) is amended to renumber subdivision (17) to (18) and to add a new subdivision (17) to read as follows:

“(17) Within the first 30 days of his probation, visit, with his probation officer, a prison unit maintained by the Department of Correction for a tour thereof so that he may better appreciate the consequences of probation revocation.”

Sec. 10. G.S. 15A-1343 as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is amended to add thereto a new subsection (d), to read:

“(d) Restitution as a condition of probation. As a condition of probation, a defendant may be required to make restitution or reparation to an aggrieved party or parties who shall be named by the court for the damage or loss caused by the defendant arising out of the offense or offenses for which the defendant has been convicted. When restitution or reparation is a condition imposed, the court shall take into consideration the resources of the defendant, his ability to earn, his obligation to support dependents, and such other matters as shall pertain to his ability to make restitution or reparation. The amount must be limited to that supported by the record, and the court may order partial restitution or reparation when it appears that the damage or loss caused by the offense or offenses is greater than that which the defendant is able to pay. The court shall fix the manner of performing the restitution or reparation, and in doing so, the court may take into consideration the recommendation of the probation officer. An order providing for restitution or reparation shall in no way abridge the right of any aggrieved party to bring a civil action against the defendant for money damages arising out of the offense or offenses committed by the defendant, but any amount paid by the defendant under the terms of an order as provided herein shall be credited against any judgment rendered against the defendant in such civil action. As used herein, ‘restitution’ shall mean compensation for damage or loss as could ordinarily be recovered by an aggrieved party in a civil action. As used herein, ‘reparation’ shall include but not be limited to the performing of community services, volunteer work, or

CHAPTER 1147 Session Laws—1977

doing such other acts or things as shall aid the defendant in his rehabilitation. As used herein, 'aggrieved party' shall include individuals, firms, corporations, associations or other organizations, and government agencies, whether federal, State or local. Provided, that no government agency shall benefit by way of restitution or reparation except for particular damage or loss to it over and above its normal operating costs. Provided further, that no third party shall benefit by way of restitution or reparation as a result of the liability of that third party to pay indemnity to an aggrieved party for the damage or loss caused by the defendant. Restitution or reparation measures are ancillary remedies to promote rehabilitation of criminal offenders and to provide for compensation to victims of crime, and shall not be construed to be a fine or other punishment as provided for in the Constitution and laws of this State."

Sec. 11. G.S. 15A-1344(a) as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is amended to delete the words "if the hearing is to be held in any other district." on line 8 and to substitute for them the words "of any hearing to affect probation substantially."

Sec. 11A. G.S. 15A-1344(d), as it appears in the 1977 Cumulative Supplement to Volume 1C, is amended on line 13 by changing the period after the word "sentencing" to a semicolon and by adding the following proviso:

"provided that probation may not be revoked solely for conviction of a misdemeanor unless it is punishable by imprisonment for more than 30 days."

Sec. 11B. G.S. 90-96(a) is amended by adding after the first sentence the following: "Notwithstanding the provisions of G.S. 15A-1342(c) or any other statute or law, probation may be imposed under this section for an offense under this Article for which the prescribed punishment includes only a fine. The provisions of the preceding sentence shall apply to all offenses committed on or after July 1, 1977".

Sec. 12. G.S. 15A-1345(a) as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is amended to add the phrase "by a law enforcement officer or probation officer" on line 3 after the word "probation" and before the word "upon".

Sec. 13. G.S. 15A-1345(d) as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is amended to delete the words "probation was imposed" on lines 3 and 4 and to substitute for them the words "the alleged violation occurred".

Sec. 13 A. G.S. 15A-1344(e), as it appears in the 1977 Cumulative Supplement to Volume 1C, is amended on lines 6 and 7 by substituting the word "continuous" for the word "consecutive"; and on lines 6 and 9 by substituting the word "noncontinuous" for the word "nonconsecutive".

Sec. 14. G.S. 15A-1347 as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is amended to add the sentence "When the defendant appeals to the superior court because a district court has found he violated probation and has activated his sentence or imposed special probation, and the superior court, after a *de novo* revocation hearing, orders that the defendant continue on probation under the same or modified conditions, the superior court is considered the court that originally imposed probation with regard to future revocation proceedings and other purposes of this Article." after the word "district." on line 11.

Sec. 15. G.S. 15A-1351(a) as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is amended to add the sentences "If imprisonment is for continuous periods, the confinement may be in the custody of either the Department of Correction or a local confinement facility. Noncontinuous periods of imprisonment under special probation may only be served in a designated local confinement or treatment facility." after the word "determines." on line 9 and before the word "The".

Sec. 16. G.S. 15A-1351(e) as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is amended to delete the words "Article 3A" on line 3 and to substitute for them the words "Article 3B".

Sec. 17. G.S. 15A-1351 is amended by adding a new subsection "g" to read as follows:

"(g) Credit. Credit towards a sentence to imprisonment is as provided in Article 19A of Chapter 15 of the General Statutes."

Sec. 18. G.S. 15A-1352 as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is amended to delete the words "less than 180 days" on line 5 and to substitute for them the words "of 180 days or less" and to delete the "." on line 6, and to add the following phrase at the end of line 6 "except as provided in G.S. 148-32.1(b)."

Sec. 19. G.S. 15A-1355 is amended by repealing subsection 15A-1355(b) and by relettering subsection (c) as subsection (b).

Sec. 19A. G.S. 15A-1371(a), as it appears in the 1977 Cumulative Supplement to Volume 1C, is amended in the third line by striking the words "life imprisonment or".

Sec. 20. G.S. 15A-1371(a) as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is amended to delete the words "G.S. 15A-1355(b) and (c)" on lines 9 and 10 and to substitute for them the words "G.S. 15A-1355(b) and Article 19A of Chapter 15 of the General Statutes." and by rewriting the last sentence of subsection (a) to read as follows:

"A prisoner whose sentence includes a minimum sentence identical to a minimum sentence required by law is eligible for release on parole upon completion of one-fourth of the minimum time, unless the order of commitment indicates that the minimum sentence was not imposed solely because required by law."

Sec. 21. G.S. 15A-1371(b) as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is amended to delete the words "At least 60" found on line 4 and again on line 6 and to substitute for them the words "within the period of 90"; to add the words "the prisoner and" after the word "notify" and before the word "the" on line 10; to delete the words "issue a formal order granting or denying parole." on lines 14 and 15 and to substitute for them the words "give the prisoner written notice of its decision."; and to delete the words "issue a formal order granting or denying parole" on lines 17 and 18 and to substitute for them the words "give the prisoner written notice of its decision".

Sec. 22. G.S. 15A-1371(g) as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is amended to add the word "maximum" on line 2 after the word "a" and before the word "sentence".

Sec. 23. G.S. 15A-1376(a) as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is amended to add the words

CHAPTER 1147 Session Laws—1977

“by a law enforcement officer or a parole officer” on line 2 after the word “arrest” and before the word “for”.

Sec. 24. G.S. 15A-1376(b) as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is amended to add the words “or a continuance is requested by the parolee” on line 3 after the word “hearing” and before the “,” to delete the word “four” on line 4 and on line 7 and to substitute for it the word “seven”; and to add a new sentence at the end of G.S. 15A-1376(b) to read as follows: “If the parolee is not within the State, his preliminary hearing is as prescribed by G.S. 148-65.1A.”

Sec. 25. G.S. 15A-1376(d) as the same appears in the 1977 Cumulative Supplement to Volume 1C of the General Statutes is amended to delete the word “court” on line 6 and to substitute for it the words “hearing officer”.

Sec. 26. G.S. 15A-1376(e) is rewritten to read as follows:

“(e) Revocation Hearing. Before finally revoking parole, the Parole Commission must, unless the parolee waived the hearing or the time limit, provide a hearing within 45 days of the parolee’s reconfinement to determine whether to revoke parole finally. The Parole Commission must adopt regulations governing the hearing and must file and publish them as provided in Article 5 of Chapter 150A of the General Statutes.”

Sec. 27. G.S. 15A-1377 is repealed.

Sec. 28. G.S. 15A-1446(d)(7) is repealed.

Sec. 29. G.S. 15A-1448 is amended to rewrite the caption to read “Procedures for taking appeal.” and to rewrite subdivisions (3) and (4) to read:

“(3) The jurisdiction of the trial court with regard to the case is divested, except as to actions authorized by G.S. 15A-1453, when notice of appeal has been given and the period described in (1) and (2) has expired.

(4) If there has been no ruling by the trial judge on a motion for appropriate relief within 10 days after motion for such relief has been made, the motion shall be deemed denied.”

Sec. 30. Chapter 711 of the 1977 Session Laws of North Carolina is amended to add a new section as follows:

“Sec. 16A. G.S. 15-196.1, as the same appears in the 1975 Replacement Volume of 1C of the General Statutes, is amended to delete therefrom the words ‘The term of a determinate sentence or the minimum and maximum term of an indeterminate’ from the beginning of the first sentence and to substitute for them the words ‘The minimum and maximum term of a’”.

Sec. 31. Section 38 of Chapter 711 of the 1977 Session Laws of North Carolina is rewritten to read as follows:

“Sec. 38. The eligibility for parole and work release of prisoners sentenced before the effective date of this act is determined by the law applicable prior to the effective date of this act.”

Sec. 32. Section 39 of Chapter 711 of the 1977 Session Laws of North Carolina is amended to delete the words “Article 85, ‘Parole’” and to substitute for them the words “this act regarding parole”.

Sec. 33. G.S. 148-33.2(c), as the same appears in the 1978 Replacement Volume to 3C of the General Statutes, is amended to delete the citation to “G.S. 15-199(10)” on line 8 and to substitute for it the citation “G.S. 15A-1343(d)”.

Sec. 34. G.S. 148-37(b), as the same appears in the 1978 Replacement Volume 3C of the General Statutes, is amended to delete the words “federal, county or city facilities located in North Carolina,” on lines 4 and 5 and to

substitute for them the words "any county or any city facility located in North Carolina, or any facility of the United States Bureau of Prisons,".

Sec. 35. G.S. 148-49.16(b), as the same appears in the 1978 Replacement Volume 3C of the General Statutes, is amended to delete the words "Article 4 of this Chapter" from lines 3 and 4 and to substitute for them the words "Article 85 of Chapter 15A of the General Statutes".

Sec. 36. G.S. 148-57.1(c), as the same appears in the 1978 Replacement Volume 3C of the General Statutes, is hereby amended to delete the citation to "G.S. 15-199(10)" on line 10 and to substitute for it the citation "G.S. 15A-1343(d)".

Sec. 37. Section 4 of this act shall become effective on August 1, 1978. The remaining sections of this act shall become effective on July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1557 CHAPTER 1148

AN ACT TO PROVIDE FOR THE ORDERLY ELECTION OF THE BOARD OF EDUCATION OF MACON COUNTY BY INCREASING THE MEMBERSHIP TO FIVE AND TO STAGGER THE TERMS OF OFFICE.

The General Assembly of North Carolina enacts:

Section 1. The governing body of the Macon County Administrative School Unit shall be a board of education known as the Macon County Board of Education, which shall have all the powers and duties conferred upon county boards of education by Chapter 115 of the General Statutes.

Sec. 2. The Macon County Board of Education shall consist of five members who shall be elected for staggered terms as hereinafter provided in this act.

The three incumbent members shall continue to serve their current term of office. The incumbent members shall constitute the Macon County Board of Education until the five member board has been elected and qualified as provided in this act.

Sec. 3. The election for members of the Macon County Board of Education shall be nonpartisan and no primary election shall be held. The election shall be held at the same time as the general election for county offices beginning in 1978, and biennially thereafter. Each candidate shall file his candidacy, without reference to any political party affiliation, with the chairman of the county board of elections no later than 80 days prior to the date of the general election for county officers. A filing fee of five dollars (\$5.00) shall be paid by each candidate. There shall be a separate ballot provided by the county board of elections with the names of the candidates printed thereon according to districts and with appropriate instructions printed thereon. No political party affiliation shall be shown on said ballot.

Sec. 4. For the purpose of electing members to the Macon County Board of Education, the County Administrative School Unit shall be composed of four residence districts as follows:

District No. 1 shall be composed of the Highlands High School attendance zone.

District No. 2 shall be composed of the Franklin High School attendance zone.

CHAPTER 1148 Session Laws—1977

District No. 3 shall be composed of the Nantahala High School attendance zone.

District No. 4 shall be composed of the entire County Administrative School Unit.

One member shall be elected for Districts No. 1, No. 2 and No. 3, and two members shall be elected for District No. 4 at the time and in the manner hereinafter provided in this act.

Sec. 5. All members must be residents of the district for which elected, and shall be elected by the voters of the Macon County School Administrative Unit.

Beginning with the regular election for county officers in 1978, one member shall be elected for District No. 1, one member for District No. 3 and one member for District No. 4. Each member elected in 1978 shall serve for a term of two years.

At the regular election for county officers in 1980, one member shall be elected for District No. 1, one member for District No. 3, and two members shall be elected for District No. 4. The candidates elected for Districts No. 1 and No. 3 in 1980 and thereafter shall be elected for terms of four years. The candidate for District No. 4 receiving the highest number of votes cast for candidates seeking election for District No. 4 in 1980 shall be elected for a term of four years, and the candidate for District No. 4 receiving the next highest number of votes shall be elected for a term of two years. Thereafter the two members elected for District No. 4 shall serve for terms of four years.

At the general election in 1982, one member shall be elected for District No. 2 and one member for District No. 4, and shall serve for terms of four years. Thereafter their successors shall serve for terms of four years.

Since all of the present members of the county board of education reside in District No. 2, no resident members shall be elected for that district until 1982.

Sec. 6. The members of the Board of Education of Macon County elected in 1978 and biennially thereafter, shall be inducted into and take the oath of office on the first Monday in April following their election and shall serve until their successors are elected and qualified.

Sec. 7. All vacancies occurring in the membership of the Board of Education of Macon County by death, resignation, removal from the district or otherwise shall be filled within 10 days of such vacancy for the unexpired term by the remaining members of the board of education. If the remaining members cannot agree within 10 days of such vacancy on the name of a successor, such vacancy shall be filled within 10 days thereafter by the Governor for the unexpired term.

Sec. 8. Except as provided herein, all elections for the members of the Board of Education of Macon County as herein provided, shall be held under the laws and regulations governing elections for county officers as provided in the General Statutes of North Carolina.

Sec. 9. Chapter 1106, Session Laws of 1967, and Chapter 301, Session Laws of 1977, and all local acts relating to the election of the Macon County Board of Education, are hereby repealed.

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1585

CHAPTER 1149

AN ACT TO AMEND THE CHARTER OF THE CITY OF GASTONIA TO GRANT TO THE CITY THE AUTHORITY TO ESTABLISH CONDITIONAL USE ZONING DISTRICTS.

The General Assembly of North Carolina enacts:

Section 1. Section 4.61 of Session Laws 1971, Chapter 910, is amended by adding a new paragraph at the end of that section to read:

"The council is hereby authorized to establish conditional use zoning districts to coincide and correlate with the issuance of conditional use permits. Such districts shall be established and amended under such rules, regulations and guidelines as may be established by the council."

Sec. 2. Chapter VII of Session Laws 1971, Chapter 910, is amended by adding a new Subchapter to read:

"SUBCHAPTER E.

"SEVERABILITY.

"Sec. 7.81. Should any provision of this act be declared invalid or unconstitutional by any court of competent jurisdiction, that declaration shall not affect the validity of any part of this act not specifically declared to be invalid or unconstitutional."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1587

CHAPTER 1150

AN ACT TO PROHIBIT ANNEXATION BY THE CITY OF JACKSONVILLE OF CERTAIN PARCELS OF LAND.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding annexation proceedings prior to the effective date of this act, the following described land shall not be included within the City of Jacksonville by reason of the annexation ordinance adopted by the City Council of the City of Jacksonville on the 25th day of April 1978: BEGINNING at a point on the Eastern right-of-way of White Street (NCSR 1702, 80 foot right-of-way), said point being located North 09 degrees 16 minutes East 400.0 feet from the point of intersection of said right-of-way with the Northern right-of-way of Bell Fork Road (NCSR 1308, 60 foot right-of-way); thence from the above described point of beginning and leaving said right-of-way South 71 degrees 45 minutes East 124.75 feet to a point; thence South 62 degrees 45 minutes East 109.70 feet to a point; thence South 60 degrees 10 minutes East 126.40 feet to a point; thence South 55 degrees 12 minutes East 132.50 feet to a point; thence South 50 degrees 35 minutes East 132.0 feet to a point; thence South 46 degrees 09 minutes East 74.65 feet to a point; thence North 22 degrees 33 minutes 45 seconds East 1171.98 feet to a point on the Southern right-of-way of Center Street (60 foot right-of-way); thence with said right-of-way North 52 degrees 00 minutes West 113.89 feet to a point; thence crossing said right-of-way North 38 degrees 00 minutes East 60.0 feet to the point of intersection of the Northern right-of-way of Center Street with the Western right-of-way of Station Street (60 foot right-of-way); thence with the Western right-of-way of Station Street North 36 degrees 58 minutes East 858.84

feet to a point; thence leaving said right-of-way North 53 degrees 02 minutes West 864.35 feet to a point on the Eastern right-of-way of White Street (60 foot right-of-way); thence crossing said right-of-way North 63 degrees 29 minutes West 60 feet to a point on the Western right-of-way of White Street; thence with said right-of-way North 26 degrees 31 minutes East 223.25 feet to a point; thence leaving said right-of-way North 62 degrees 22 minutes 53 seconds West 602.15 feet to a point; thence South 26 degrees 31 minutes West 224.27 feet to a point; thence South 62 degrees 22 minutes 53 seconds East 602.15 feet to a point on the Western right-of-way of White Street; thence with said right-of-way South 26 degrees 31 minutes West 883.99 feet to a bend in said right-of-way at the point where White Street increases to an 80 foot right-of-way; thence North 63 degrees 29 minutes West 10.0 feet to a point; thence with said 80 foot right-of-way South 26 degrees 31 minutes West 576.25 feet to the point of tangency of a curve having a radius of 1004.93 feet; thence along the arc of said curve Southwestwardly, a distance of 268.64 feet the point of curvature of said right-of-way; thence South 11 degrees 12 minutes West 452.27 feet to a bend in said right-of-way; thence South 09 degrees 16 minutes West 54.14 feet to a point; thence crossing said right-of-way South 80 degrees 44 minutes East 80.0 feet to the point and place of beginning.

Sec. 2. Regardless of any statutory requirement to the contrary, this act shall not affect the validity of the annexation of any other land included within the annexation ordinance for the City of Jacksonville effective June 28, 1978.

Sec. 3. This act shall become effective June 28, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

AN ACT TO INCREASE TO NINE THE NUMBER OF TRUSTEES OF THE
JOHNSTON COUNTY MEMORIAL HOSPITAL.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 131-7 or any other general or local statute, the board of trustees of the Johnston County Memorial Hospital shall consist of nine members. As soon as practicable after the ratification of this act, the Board of County Commissioners of Johnston County shall appoint two additional trustees - one for a term to expire on each of the next dates as of which only two of the terms of current trustees expire, so that the terms of three trustees shall expire every two years. Successors to the two new trustees shall be elected for terms of six years in the same manner and subject to the same conditions governing election of the current seven trustees.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1590

CHAPTER 1152

AN ACT TO EXEMPT ELECTED OFFICIALS IN NORTHAMPTON COUNTY AND MUNICIPAL GOVERNMENTS IN THAT COUNTY FROM G.S. 14-234 UNDER CERTAIN CIRCUMSTANCES.

Whereas, the elected officials of the county government in Northampton County and of the cities and towns within the county are often the only professional persons or business owners who can conveniently and inexpensively provide services, facilities or supplies to the public bodies they serve; and

Whereas, G.S. 14-234 makes it unlawful for those officials to undertake or contract to provide services, facilities or supplies to the public bodies or agencies that they serve; and

Whereas, it is in the public interest to make it lawful for those officials to undertake or contract to provide services, facilities or supplies to the public bodies and agencies they serve if done properly and openly; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-234 shall not apply to elected officials of Northampton County, or any of its agencies, nor to the elected officials of any city or town within Northampton County if:

(1) the undertaking or contract between the unit or agency and one of its elected officials is approved by resolution of the appropriate governing board adopted in a regular, open, and public meeting, and recorded in its minutes; and

(2) the official entering into the contract or undertaking with the unit or agency does not participate in his official capacity in any way in the negotiation of the undertaking or contract or in the consideration of or action upon the authorizing resolution.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1593

CHAPTER 1153

AN ACT TO REPEAL THE REQUIREMENT OF TAX PAYMENT BEFORE RECORDING A DEED IN WATAUGA COUNTY.

The General Assembly of North Carolina enacts:

Section 1. Section 1, Session Laws of 1975, Chapter 175, is repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1594

CHAPTER 1154

**AN ACT TO CLARIFY THE ELECTION OF TRUSTEES OF THE
CABARRUS COUNTY HOSPITAL.**

The General Assembly of North Carolina enacts:

Section 1. Section 5 of Chapter 307 of the 1935 Public-Local Laws is hereby amended by rewriting the seventh sentence thereof to read as follows: "In case of vacancy on the Board of Trustees for any cause, including the creation of a new voting precinct in the county in which a member does not reside and the expiration of terms of all members, the said Board shall fill the vacancy by electing a new member who resides within the newly created voting precinct or from the same voting precinct as that of the retired member."; and is further amended by adding a new sentence to follow immediately after the seventh sentence rewritten above and to read as follows: "In the event two or more voting precincts should be consolidated, the appointment of all members residing within the new voting precinct shall thereupon terminate and the Board of Trustees shall appoint a member from the newly created voting precinct."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1598

CHAPTER 1155

**AN ACT TO AMEND G.S. 18A-16 TO PROVIDE FOR THE SELECTION OF
THE MEMBERS OF EDGECOMBE COUNTY ABC BOARD BY THE
BOARD OF COUNTY COMMISSIONERS.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 18A-16, as the same appears in the 1975 Replacement Volume 1C, is hereby amended:

(a) by deleting from the first paragraph of subsection (a) thereof, at lines 6 through 9, the following:

"in a joint meeting of the board of county commissioners, the county board of health, and the county board of education. Each person voting at this joint meeting shall have only one vote, notwithstanding the fact that there may be instances in which some persons are members of another board.", and by substituting in lieu thereof the words "by the Edgecombe County Board of County Commissioners";

(b) by deleting from the second paragraph of subsection (a) thereof, at lines 11 and 12, the words "the appointing boards" and by substituting in lieu thereof the words "the Edgecombe County Board of County Commissioners";

(c) by deleting therefrom the third paragraph of subsection (a), lines 18 through 27, and by substituting in lieu thereof the following:

"Any member of the county board hereinabove referred to in this section may be removed at any time by the board of county commissioners whenever such board finds, by a majority vote of its membership, that a member or members are unfit to serve on the county alcoholic beverage control board. If any member of the county board is removed hereunder, his successor shall be selected to serve out the time for which such member was originally selected.";

(d) by deleting from the fourth paragraph of subsection (a), at lines 33 through 35, the following:

“at a joint meeting of the board of county commissioners, the county board of health, and the county board of education, which joint meeting shall be held within 10 days after such resignation or death.”, and by substituting in lieu thereof the following:

“by the Edgecombe County Board of County Commissioners at its next regularly scheduled meeting following the death or resignation of the chairman or any other member of the county board of alcoholic control.”;

(e) by deleting from subsection (c) thereof, at line 2, the words “joint meeting of the several boards that appoint them” and by substituting in lieu thereof the words “Edgecombe County Board of County Commissioners”;

(f) by deleting from subsection (d) thereof, at lines 15 and 16, the words “The three joint boards referred to above”, and by substituting in lieu thereof the words “The Edgecombe County Board of County Commissioners”.

Sec. 2. This act shall apply only to Edgecombe County.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1599 CHAPTER 1156

AN ACT TO AMEND THE CHARTER OF THE CITY OF STATESVILLE
AS ENACTED BY CHAPTER 289 OF THE SESSION LAWS OF 1977.

The General Assembly of North Carolina enacts:

Section 1. Sec. 9.13(a) of the Charter of the City of Statesville, as enacted by Chapter 289 of the Session Laws of 1977, is amended by inserting in the first sentence thereof, between the word “for” and the word “sewer” the words and punctuation “streets and sidewalks.”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1600 CHAPTER 1157

AN ACT TO ADD POLK COUNTY TO THE LIST OF COUNTIES COVERED
BY ARTICLE 9B OF CHAPTER 44 OF THE GENERAL STATUTES
WHICH PROVIDES FOR LIEN AND ATTACHMENT OR
GARNISHMENT TO COLLECT CHARGES FOR CITY OR COUNTY
AMBULANCE SERVICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 44-51.8 is amended by inserting in line 6 thereof immediately following the word “Pitt”, the word “Polk.”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

CHAPTER 1158 Session Laws—1977

H. B. 1602 **CHAPTER 1158**

AN ACT TO ALLOW THE TOWN OF CHAPEL HILL TO GRANT SOME OF THE POWERS OF THE BOARD OF ADJUSTMENT TO THE PLANNING BOARD.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Chapel Hill, as it appears in Section 1 of Session Laws 1973, Chapter 473, as amended, is further amended by adding at the end of Section 5.10 of the Charter the following:

"The board of aldermen may designate the planning board to perform some or all of the duties of the board of adjustment, in addition to its other duties."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1607 **CHAPTER 1159**

AN ACT TO CHANGE THE TITLE OF THE GOVERNING BOARD IN ATLANTIC BEACH.

The General Assembly of North Carolina enacts:

Section 1. Sections 3 through 6 and Sections 8 through 11 of Chapter 433, Public-Local Laws of 1937 are amended by striking the word "aldermen" whenever it appears and inserting in lieu thereof the word "commissioners".

Sec. 2. Section 7 of Chapter 433, Public-Local Laws of 1937 is amended by changing the word "aldermen" to "commissioners" the first and third times that word appears, and by changing the phrase "aldermen and commissioners" to "councilmen".

Sec. 3. In Chapter 343, Public-Local Laws of 1939 and in any other local act applicable to the Town of Atlantic Beach, the word "aldermen" is changed to "commissioners".

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1614 **CHAPTER 1160**

AN ACT TO PERMIT THE CREATION OF A BOARD OF SUBDIVISION REVIEW FOR THE CITY OF CHERRYVILLE.

The General Assembly of North Carolina enacts:

Section 1. The City of Cherryville is authorized to create a Board of Subdivision Review.

Sec. 2. The Planning and Zoning Commission of the City of Cherryville shall serve ex officio as the Board of Subdivision Review.

Sec. 3. The Board of Subdivision Review is authorized to determine whether a proposed division of a parcel of real property located within the city limits of Cherryville or within its one mile extraterritorial jurisdiction constitutes a "subdivision" as defined in G.S. 160A-376, for the purpose of determining whether the proposed division is exempt from complying with the Cherryville subdivision regulations.

Sec. 4. In order to make these determinations, the Board of Subdivision Review is authorized to conduct public hearings on proposed divisions of real property.

Sec. 5. Decisions of the Board of Subdivision Review shall be subject to review by the Superior Court of Gaston County in a proceeding in the nature of certiorari.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1616

CHAPTER 1161

AN ACT AMENDING CHAPTER 4, SUBCHAPTER D, SECTION 4.61(6), OF THE CHARTER OF THE CITY OF CHARLOTTE RELATING TO THE CHARLOTTE CIVIL SERVICE BOARD.

The General Assembly of North Carolina enacts:

Section 1. Chapter 4, Subchapter D, Section 4.61(6), of the Charter of the City of Charlotte, as contained in Section 1 of Chapter 713 of the 1965 Session Laws, is hereby amended by deleting in its entirety the sentence that reads "In the conduct of said investigations, each member of said board shall have full power and authority to secure by subpoena both the attendance and testimony of witnesses and the production of books and papers relative to such investigations," and substituting in lieu thereof the following:

"In the conduct of its hearings each member of the board shall have the power to subpoena witnesses, administer oaths, and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board may apply to the General Court of Justice, Superior Court Division, for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties. If any person, while under oath at a hearing by the board, willfully swears falsely, he shall be guilty of a misdemeanor."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1620

CHAPTER 1162

AN ACT TO AUTHORIZE THE QUALIFIED VOTERS OF THE TOWN OF ELK PARK, AVERY COUNTY, TO DETERMINE WHETHER ALCOHOLIC BEVERAGE CONTROL STORES SHALL BE OPERATED IN THE TOWN OF ELK PARK.

The General Assembly of North Carolina enacts:

Section 1. The governing body of the Town of Elk Park shall call a special election to be held on the question of whether alcoholic beverage control stores may be operated in said town. The governing body may call the special election to be held on such date as the county board of elections may determine, but not less than 30 nor more than 60 days subsequent to the ratification of this act. The Avery County Board of Elections shall hold and conduct all elections under this act, and the cost of the special elections shall be paid from the general fund of the town.

CHAPTER 1162 Session Laws—1977

Sec. 2. A new registration for voters for such election shall not be necessary and all qualified voters who are properly registered prior to registration for the election and those who register for said election shall be entitled to vote in said election. Except as otherwise herein provided, if a special election is called, the special election authorized shall be conducted under the same statutes, rules and regulations applicable to general elections for the Town of Elk Park.

Sec. 3. There shall be submitted to the qualified voters of the Town of Elk Park at said election the question of whether municipal alcoholic beverage control stores may be operated in said town, and if a majority of the votes cast in such an election shall be for the operation of such stores, it shall be legal for alcoholic beverage control stores to be set up and operated in the town, but if a majority of the votes cast in such election shall be against alcoholic beverage control stores, no such stores shall be set up or operated in the Town of Elk Park under the provisions of this act. In said election a ballot shall be used upon which shall be printed on separate lines for each proposition, "For Alcoholic Beverage Control Stores", "Against Alcoholic Beverage Control Stores". Those favoring setting up and operating alcoholic beverage control stores in the town shall mark in the voting square to the left of the words, "For Alcoholic Beverage Control Stores", printed on the ballot and those opposed to alcoholic beverage control stores shall mark in the voting square to the left of the words "Against Alcoholic Beverage Control Stores", printed on the ballot.

Sec. 4. If the operation of town alcoholic beverage control stores is authorized under the provisions of this act, the governing body of the town shall immediately create a town board of alcoholic beverage control, to be composed of a chairman and two other members who shall be well known for their good character, ability and business acumen. Said board shall be known and designated as the "Town of Elk Park Board of Alcoholic Beverage Control". The chairman of said board shall be designated by the governing body of the town and shall serve for his first term a period of three years. The other two members of the board of alcoholic beverage control shall be designated by the governing body of the town, and one member shall serve for his first term a period of two years, and the other member shall serve for his first term a period of one year; all terms shall begin with the date of appointment, and after the same term shall have expired, successors in office shall serve for a period of three years. Their successors shall be named by the governing body of the town. Any vacancy shall be filled by the governing body of the town for the unexpired term.

Sec. 5. The town board of alcoholic beverage control shall have all the powers and duties prescribed for county boards of alcoholic control by G.S. 18A-17, except to the extent that the same may be in conflict with the provisions of this act, and shall be subject to the same powers and authority of the State Board of Alcoholic Control as are county boards of alcoholic control by the provisions of G.S. 18A-15. The Town of Elk Park Board of Alcoholic Control, in the operation of any city alcoholic beverage control stores authorized under the provisions of this act, shall be subject to the provisions of Chapter 18A of the General Statutes, except to the extent that the same may be in conflict with the provisions of this act. Whenever the term "county board of alcoholic control" appears in Chapter 18A, it shall be deemed to include the Town of Elk Park Board of Alcoholic Control.

Sec. 6. The town board of alcoholic beverage control shall, out of the gross revenue derived from the operation of alcoholic beverage control stores, pay all salaries, costs and operating expenses and retain a sufficient and proper working capital, the amount thereof to be determined by the town board of alcoholic beverage control. The remaining revenue, as determined by quarterly audit, shall be distributed quarterly by the town board of alcoholic beverage control to the general fund of the Town of Elk Park to be used for any and all purposes for which tax and non-tax revenues may be expended by the town. Provided, however, that of said monies received, the town shall expend a sum not less than five percent (5%) nor more than fifteen percent (15%) for law enforcement in the town, and shall expend within the town, a sum not less than seven percent (7%) for education on the excessive use of alcoholic beverages and for the rehabilitation of alcoholics.

Sec. 7. Subsequent elections may be held as authorized in this section. At such election if a majority of the votes shall be cast "Against Alcoholic Beverage Control Stores", the alcoholic beverage control board shall be closed immediately and no beverages shall be sold at retail or otherwise to citizens of Avery County, and within three months from the canvassing of such votes and the declaration of the results thereof, the alcoholic beverage control board shall dispose of all alcoholic beverages on hand, all fixtures and all other property in the hands and under the control of said board and convert the same into cash and the same be deposited in the general fund of the Town of Elk Park. Thereafter, all public, local and private laws applicable to the sale of intoxicating beverages within the Town of Elk Park, in force and effect prior to the authorization to operate alcoholic beverage control stores, shall be in full force and effect the same as if such election had not been held, and until and unless another election is held under the provisions of the act in which a majority of the votes shall be cast "For Alcoholic Beverage Control Stores". No election shall be called and held in the town under the provisions of this act within three years from the holding of the last election thereunder. The governing body of the Town of Elk Park may order a subsequent alcoholic beverage control election on its own motion, and shall within 60 days after a petition shall have been presented to the town's governing body, filed and signed by at least twenty percent (20%) of the number of the registered and qualified voters of the Town of Elk Park that voted in the election for the governing body of said town in the last election, order an election on the question of whether alcoholic beverage control stores shall be operated in the town.

Sec. 8. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 9. This act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

CHAPTER 1163 Session Laws—1977

H. B. 1689 **CHAPTER 1163**

AN ACT TO REPEAL CHAPTER 892 OF THE 1965 SESSION LAWS TO
ENABLE CUMBERLAND COUNTY TO RECEIVE ADDITIONAL
FEDERAL REVENUE SHARING MONEY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 892 of the 1965 Session Laws is repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of
June, 1978.

S. B. 961 **CHAPTER 1164**

AN ACT TO AMEND CHAPTER 188 OF THE 1977 SESSION LAWS
RELATING TO THE POLICEMEN'S AND FIREMEN'S PENSION
FUNDS OF THE CITY OF ASHEVILLE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 188 of the 1977 Session Laws is hereby amended by
deleting all of Section 28 and substituting in lieu thereof the following:

"Sec. 28. No provision of this act shall be construed so as to modify in any
respect the benefits granted under Chapters 242 and 243 of the 1939 Session
Laws, amended by Chapters 310 and 311 of the 1945 Session Laws, and
Chapters 320 and 322 of the 1955 Session Laws, to employees of the Asheville
Police Department and the Asheville Fire Department assigned to said
departments prior to the effective date of this act or to the effective date of any
such employees' retirement and disability plan covering future employees of
such departments; provided, however, that employees of said departments
covered by this act may within a period of time to be established by the City
Council of the City of Asheville of no less than one year nor more than two
years after the effective date of any new plan, elect in writing to withdraw from
participation in said existing plan and to participate in and contribute to the
new plan for their department, in which case they shall be entitled to no
further benefits of said existing plan and shall transfer all contributions
representing credit for service to the City of Asheville made by them into said
new plan in such manner as would be acceptable by the North Carolina Local
Governmental Employees' Retirement System under the provisions of G.S.
128-25. No provision of this act shall prevent employees affected from coming
under the North Carolina Local Governmental Employees' Retirement System
subsequent to a majority vote."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of
June, 1978.

H. B. 1563

CHAPTER 1165

AN ACT TO CHANGE THE FILING DATE FOR ELECTION TO THE RUTHERFORD COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 359, Session Laws of 1973, is amended by deleting the words "The filing deadline is the Friday preceding the sixth Saturday before the election" and substituting in lieu thereof the words: "The filing deadline is 12:00 noon on the Friday preceding the 11th Saturday before the election".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1565

CHAPTER 1166

AN ACT TO AMEND G.S. 63-4 TO ENABLE THE LAURINBURG-MAXTON AIRPORT COMMISSION TO BECOME A "UNIT OF GOVERNMENT".

The General Assembly of North Carolina enacts:

Section 1. G.S. 63-4 is rewritten to read:

"§ 63-4. *Joint airports established by cities and towns and counties.*—The governing bodies of any city, town and county in this State are hereby authorized to jointly acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports or landing fields for the use of airplanes and other aircraft within or without the limits of such cities, towns and counties, including any water or sewer system used in connection therewith and to provide wastewater collection systems, wastewater treatment works, and water supply systems for the airport and surrounding areas, and may use for such purposes any property suitable therefor that is now or may at any time hereafter be jointly owned or controlled by such city, town and county."

Sec. 2. This act shall be applicable only to the City of Laurinburg and the Town of Maxton.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1567

CHAPTER 1167

AN ACT TO CHANGE THE FILING DATE FOR ELECTION TO THE VANCE COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. Section 7 of Chapter 262, Session Laws of 1967 is amended by striking the words "by 12:00 o'clock noon on or before the Friday preceding the sixth Saturday before such primary is to be held", and inserting in lieu thereof "during the period prescribed by G.S. 163-106(c) for county officers."

Sec. 2. This act shall become effective January 1, 1979.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

CHAPTER 1168 Session Laws—1977

H. B. 1568 **CHAPTER 1168**

AN ACT TO INCREASE THE MAXIMUM NUMBER OF LIBRARY BOARD MEMBERS IN BURKE COUNTY FROM 12 TO 14.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 153A-265, any library board of trustees established by Burke County or by any municipality in Burke County may have not more than 14 members.

Sec. 2. This act shall apply only to Burke County and to municipalities within Burke County.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1569 **CHAPTER 1169**

AN ACT RELATING TO THE GAME OF BINGO IN THE COUNTY OF ONSLOW.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Article 37 of Chapter 14 of the General Statutes, it shall be lawful for either civic, charitable, religious, nonprofit organizations, or war veterans' organizations to sponsor or operate the game of "bingo" in Onslow County; provided, however, that no cash prizes shall be awarded by any organization which has not qualified for tax exempt status under IRS rule for at least five years prior to the awarding of any cash prizes and that all proceeds from these games be returned to the sponsoring organizations.

Sec. 2. Provisions of Chapter 1080 of the 1973 Session Laws, Second Session 1974, as it applies to Onslow County are hereby repealed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1570 **CHAPTER 1170**

AN ACT TO AMEND CHAPTER 248 OF THE SESSION LAWS OF 1977 RELATING TO THE CAREER SERVICE COMMISSION OF THE CITY OF HIGH POINT.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of 1977 Session Laws Chapter 248 is amended by adding a new paragraph as follows:

"(4) Subpoena power. The Career Service Commission shall have power to subpoena any person for examination under oath and to subpoena documents whenever it has reasonable grounds for the belief that such person has knowledge or that such documents contain information that is pertinent to the exercise of the powers and duties specified in paragraph (3)(a), above. The subpoena shall be signed by the chairman of the Commission and shall be served by an officer qualified to serve subpoenas. Any person who shall wilfully fail or refuse to appear, produce subpoenaed documents, or testify concerning

the subject of the inquiry shall be guilty of a misdemeanor and fined and/or imprisoned in the discretion of the court.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1571 CHAPTER 1171

AN ACT TO PERMIT THE COUNTY COMMISSIONERS OF CAMDEN COUNTY TO APPOINT THE CAMDEN COUNTY BOARD OF ALCOHOLIC CONTROL.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 18A-16, the members of the Camden County Board of Alcoholic Control shall be selected by majority vote of the Board of County Commissioners of Camden County, and vacancies on the Board of Alcoholic Control shall be filled in the same manner. Any member of the Camden County Board of Alcoholic Control may be removed at any time by the Board of Commissioners of Camden County whenever such board finds by a majority vote of its entire membership that a member of the Board of Alcoholic Control is unfit to serve on that board. Except as expressly modified by this section, G.S. 18A-16 shall remain in effect with regard to the Camden County Board of Alcoholic Control.

Sec. 2. This act shall apply to appointments made after the expiration of terms now being served, and to vacancies existing on the effective date of this legislation or occurring thereafter.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1572 CHAPTER 1172

AN ACT TO REESTABLISH THE OFFICE OF CORONER IN TYRRELL COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The office of coroner in Tyrrell County is hereby established. Upon the appointment of a coroner in Tyrrell County under this act, the provisions of Chapter 152 of the General Statutes shall be applicable to Tyrrell County, except that G.S. 152-1 shall not be applicable to Tyrrell County.

Sec. 2. The coroner in Tyrrell County shall be appointed by the Board of Commissioners of Tyrrell County for a term of two years, and shall, upon qualification, hold office until his successor is appointed and qualified. A vacancy in the office of coroner in Tyrrell County shall be filled by the county commissioners for the remainder of the unexpired term, and until his successor is appointed and qualified.

Sec. 3. The term of office of the coroner first appointed under this act shall expire December 31, 1979.

Sec. 4. When the Tyrrell County coroner shall be out of Tyrrell County, or shall for any reason be unable to hold the necessary inquest as provided by law, or there is a vacancy existing in the office of coroner which has not been filled by the county commissioners and it is made to appear to the clerk of the

CHAPTER 1172 Session Laws—1977

superior court by satisfactory evidence that a deceased person whose body has been found within the county probably came to his death by the criminal act or default of some person, it is the duty of the clerk to appoint some suitable person to act as coroner in such special case.

Sec. 5. The Board of Commissioners of Tyrell County may remove from office the coroner, upon charges made in writing and after a hearing, for the following causes:

(1) for willful or habitual neglect or refusal to perform the duties of his office;

(2) for willful misconduct or maladministration in office;

(3) for corruption;

(4) upon conviction of a felony.

Sec. 6. Chapter 96, Session Laws of 1975, is repealed.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1573

CHAPTER 1173

AN ACT TO ALLOW THE TOWN OF NAGS HEAD TO CONVEY LAND FOR HEALTH CARE PURPOSES AND SUBORDINATE A REVERTER CLAUSE.

The General Assembly of North Carolina enacts:

Section 1. Section 4 of Chapter 1160, Session Laws of 1973 is amended by adding the following before the period:

“, Provided further, that the reverter requirement of this section may be subordinated by the Board of Commissioners of the Town of Nags Head to a first lien deed of trust given by the owner of any portion of the lands conveyed under this Chapter to a bona fide lending institution for a construction or permanent loan for the purpose of financing improvements on said property”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1582

CHAPTER 1174

AN ACT AUTHORIZING CABARRUS MEMORIAL HOSPITAL TO SELL SHARES OF COMMON STOCK OF AN OUT-OF-STATE CORPORATION.

Whereas, Cabarrus Memorial Hospital owns 421 shares out of a total of 1,000 shares of Common Stock of Social Circle Cotton Mill Company, a Georgia corporation with its principal place of business in Social Circle, Georgia; and

Whereas, the aforesaid Cabarrus Memorial Hospital desires to sell said shares for cash at a private sale; and

Whereas, said shares of Social Circle Cotton Mill Company are not listed on a stock exchange, reported by the National Association of Securities Dealers Automated Quotations System, or actively traded in the over-the-counter market; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The purpose and intent of this act is to authorize Cabarrus Memorial Hospital to sell and dispose of its shares of Common Stock of an out-

of-state corporation by private negotiation and sale since it is impractical to dispose of such shares by any method prescribed in G.S. 153A-176 and G.S. 160A-266 other than by private negotiation and sale.

Sec. 2. Notwithstanding the limitations prescribed in G.S. 153A-176 and G.S. 160A-266, Cabarrus Memorial Hospital is hereby authorized to sell by private negotiation and sale any or all of the shares of Common Stock of Social Circle Cotton Mill Company, a Georgia corporation with its principal place of business in Social Circle, Georgia, under the procedure set forth in G.S. 160A-267.

Sec. 3. This act shall apply to Cabarrus Memorial Hospital only.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1604 CHAPTER 1175

AN ACT RELATING TO THE GAME OF BINGO IN THE COUNTY OF LENOIR.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of Article 37 of Chapter 14 of the General Statutes, it shall be lawful for either civic, charitable, religious, nonprofit organizations, or war veterans' organizations to sponsor or operate the game of "bingo" in Lenoir County; provided, however, that no cash prizes shall be awarded to any of the participants.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1605 CHAPTER 1176

AN ACT TO ELIMINATE THE REQUIREMENT IN DURHAM COUNTY THAT AFFIDAVITS OF PERSONS SUING AS A PAUPER BE MADE BEFORE A JUDGE OR CLERK.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 381, Public Laws of 1937 is amended by deleting the word "Durham,".

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

CHAPTER 1177 Session Laws—1977

H. B. 1606 CHAPTER 1177

AN ACT TO AMEND THE CHARTER OF THE TOWN OF PINE KNOLL SHORES.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Pine Knoll Shores as contained in Section 5 of Chapter 265 of the Session Laws of 1973 is amended as follows:

(1) Section 3.5 of the Charter is amended by striking the words "at the first regularly scheduled meeting of the Board following each biennial election", and inserting in lieu thereof the words "in accordance with the provisions of G.S. 160A-68."

(2) Section 4.2 of the Charter is amended to read: "Each qualified person who would offer himself as a candidate for the office of commissioner shall file a notice of candidacy as provided in G.S. 163-294.2(c)."

(3) Section 7.6 of the Charter is repealed.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 1013 CHAPTER 1178

AN ACT TO PROVIDE FOR THE ISSUANCE OF SPECIAL PERMITS TO ALLOW THE OPERATION OF PASSENGER BUSES WHICH EXCEED THE STATUTORY WEIGHT LIMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-118(8), as it appears in the 1977 Cumulative Supplement to the 1975 Replacement Volume 1C of the North Carolina General Statutes, is hereby amended by repealing the last sentence thereof which reads as follows: "No special permits shall be issued for any passenger buses exceeding the foregoing specified weights for each group."

Sec. 2. G.S. 20-118(8), as it appears in the 1977 Cumulative Supplement to the 1975 Replacement Volume 1C of the North Carolina General Statutes, is hereby amended by repealing the word "no" in line 7 and by inserting in lieu thereof the following: "Unless the applicant holds a special permit from the Department of Transportation, no".

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 962 CHAPTER 1179

AN ACT TO MAKE TECHNICAL CORRECTIONS IN CHAPTER 787 OF THE 1977 SESSION LAWS, THE SPEEDY TRIAL ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-701(a)(1), as contained in Section 1 of Chapter 787 of the 1977 Session Laws, is amended by deleting the words "is notified pursuant to G.S. 15A-630 that an indictment has been filed with the superior court against him" and by inserting in lieu therefor the following: "is indicted".

Sec. 2. G.S. 15A-701(al) and G.S. 15A-701(al)(1), as contained in Section 1 of Chapter 787 of the 1977 Session Laws, are amended by deleting the words "is

notified pursuant to G.S. 15A-630 that an indictment has been filed against him” and by inserting in lieu thereof the following: “is indicted”.

Sec. 3. G.S. 15A-701(a)(3) and G.S. 15A-701(al)(3), as contained in Section 1 of Chapter 787 of the 1977 Session Laws, are amended by deleting the words “was notified pursuant to G.S. 15A-630 that an indictment has been filed with the superior court against him” and by inserting in lieu thereof the following: “was indicted”.

Sec. 4. G.S. 15A-701(b)(7)a., as contained in Section 1 of Chapter 787 of the 1977 Session Laws, is amended by inserting the word “and” following the semicolon.

Sec. 5. G.S. 15A-701(b)(7)b., as contained in Section 1 of Chapter 787 of the 1977 Session Laws, is amended by deleting the word “and” following the semicolon.

Sec. 6. G.S. 15A-701(b)(7)c., as contained in Section 1 of Chapter 787 of the 1977 Session Laws, is repealed.

Sec. 7. G.S. 15A-701(b)(10), as contained in Section 1 of Chapter 787 of the 1977 Session Laws, is amended by deleting the period and inserting the following in lieu thereof “; and”.

Sec. 8. G.S. 15A-701(b), as contained in Section 1 of Chapter 787 of the 1977 Session Laws, is amended by adding a new subdivision to read as follows:

“(11) a period of delay from time the prosecutor enters a dismissal with leave for the nonappearance of the defendant until the prosecutor reinstitutes the proceedings pursuant to G.S. 15A-932.”

Sec. 9. Section 2 of Chapter 787 of the 1977 Session Laws is amended by deleting the words “is notified pursuant to G.S. 15A-630 that an indictment has been filed with the superior court against him” and by inserting in lieu thereof the following: “is indicted”.

Sec. 10. Section 3 of Chapter 787 of the 1977 Session Laws is repealed.

Sec. 11. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 951

CHAPTER 1180

AN ACT TO EXEMPT LENOIR COUNTY FROM COMPLYING WITH CERTAIN STATUTES IN THE CONSTRUCTION OF BUILDINGS ON COUNTY-OWNED LAND.

The General Assembly of North Carolina enacts:

Section 1. The Lenoir County Board of Commissioners is authorized to enter into contracts for the construction of buildings on land owned by Lenoir County, notwithstanding the provisions of Chapter 133, Chapter 83, Chapter 87, Chapter 89C, and Article 8 of Chapter 143.

Sec. 2. The provisions of this act shall only apply to the construction of a farmers market building, an agricultural extension office building, and a livestock show and sale building.

Sec. 3. Provided, however, that the building inspector retained by Lenoir County shall certify compliance with the plans and specifications as provided by Chapter 133 of the General Statutes.

Sec. 4. This act is effective upon ratification.

CHAPTER 1180 Session Laws—1977

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 1975 CHAPTER 1181

AN ACT TO AMEND CHAPTER 53, BANKS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-117 is rewritten to read:

“§ 53-117. *Appointment by Commissioner of Banks, examination of banks.*—(a) The Commissioner of Banks, for the purpose of carrying out the provisions of this Chapter, shall appoint from time to time such State bank examiners, assistant State bank examiners, clerks and stenographers as may be necessary to examine the affairs of every bank doing business under this Chapter as often as the Commissioner of Banks shall deem necessary, and at least once every year; but the commissioner may extend this period to 18 months when, in his opinion, an emergency condition exists that necessitates such action. The Commissioner of Banks may, at any time, remove any person appointed by him under this Chapter.

(b) The State Banking Commission shall adopt rules and regulations to implement the provisions of this Chapter, prescribing the nature and scope of examination of banks.

(c) The Commissioner of Banks is authorized to accept, in his discretion, as a part of a bank examination, reports on audits conducted in accordance with generally accepted auditing standards by independent accountants, when such reports contain an opinion by the independent accountant on the fairness of presentation of the financial statements and present information required by the rules and regulations of the State Banking Commission. No report of an audit of any bank shall be acceptable under this subsection if such audit was made by a person, firm or corporation who is a director, officer or employee of a bank or has a financial interest, other than as a depositor or obligor upon a fully collateralized loan, in the bank which is the subject of the audit.

(d) In the case of a bank which is a member of the Federal Reserve System or in the case of a bank whose deposits are insured by the Federal Deposit Insurance Corporation, the Commissioner of Banks is authorized to accept, in his discretion, as a part of the examinations prescribed in subsection (b) of this section, examinations and reports made pursuant to the Federal Reserve Act or the Federal Deposit Insurance Corporation Act.”

Sec. 2. G.S. 53-99 is rewritten to read:

“§ 53-99. *Official records.*—(a) The Commissioner of Banks shall keep a record in his office of his official acts, rulings, and transactions.

(b) Notwithstanding any laws to the contrary, the following records of the Commissioner of Banks shall be confidential and shall not be disclosed or be subject to public inspection:

- (1) Records compiled during an examination, audit or investigation of any bank, banking office or trust department operating under the provisions of this Chapter.
- (2) Records containing information compiled in preparation or anticipation of litigation.
- (3) Records containing the names of any borrowers from a bank or revealing the collateral given by any such borrower.

(4) Records prepared during or as a result of an examination, audit or investigation of any bank or banking practice by an agency of the United States, or jointly by such agency and the Commissioner of Banks, if such records would be confidential under any federal law or regulation.

(5) Any letters, reports, memoranda, recordings, charts, or other documents which would disclose any information set forth in any of the confidential records referred to in subdivisions (1) through (4)."

Sec. 3. (a) There is hereby created a Study Commission on Access to and Confidentiality of Banking Records to be composed of nine members appointed by the Governor, provided that not more than four members nor less than two members of the commission shall be officers, directors or employees of a bank.

(b) The commission shall study the matter of access to and confidentiality of the records of the Commissioner of Banks and the State Banking Commission and shall report its recommendations to the General Assembly not later than March 1, 1979.

(c) The members of the commission shall be paid such per diem and travel expenses as are provided for members of the State boards and commissions generally. Reasonable expenses of the commission shall be paid from the Contingency and Emergency Fund under the procedure in G.S. 143-12.

Sec. 4. This act is effective upon ratification and shall expire on June 30, 1979, unless repealed by the General Assembly prior thereto.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 993

CHAPTER 1182

AN ACT TO PROVIDE A CERTIFICATE OF NEED LAW, SO AS TO IMPLEMENT THE RECOMMENDATIONS OF THE LEGISLATIVE COMMISSION ON MEDICAL COST CONTAINMENT.

The General Assembly of North Carolina enacts:

Section 1. This act may be cited as the North Carolina Health Planning and Resource Development Act of 1978.

Sec. 2. Chapter 131 of the General Statutes is amended by adding a new Article 18 to read:

"ARTICLE 18.

"Certificate of Need Law.

"§ 131-170. *Findings of fact.*—The General Assembly of North Carolina makes the following findings:

(1) That, because of the manner in which health care is financed, the forces of free market competition are largely absent and that government regulation is therefore necessary to control the cost, utilization, and distribution of health services.

(2) That the continuously increasing cost of health care services threatens the health and welfare of the citizens of this State in that citizens need assurance of economical, and readily available health care.

(3) That the current system of planning for health care facilities and equipment has led to the proliferation of new inpatient acute care facilities and medical equipment beyond the need of many localities in this State and an inadequate supply of health personnel and of resources for long term, intermediate, and ambulatory care in many localities.

CHAPTER 1182 Session Laws—1977

(4) That this trend of proliferation of unnecessary health care facilities and equipment results in costly duplication and underuse of facilities, with the availability of excess capacity leading to unnecessary use of expensive resources and overutilization of acute care hospital services by physicians.

(5) That a certificate of need law is required by P.L. 93-641 as a condition for receipt of federal funds. If these funds were withdrawn the State of North Carolina would lose in excess of fifty-five million dollars (\$55,000,000).

(6) That excess capacity of health facilities places an enormous economic burden on the public who pay for the construction and operation of these facilities as patients, health insurance subscribers, health plan contributors, and taxpayers.

(7) That the general welfare and protection of lives, health, and property of the people of this State require that new institutional health services to be offered within this State be subject to review and evaluation as to type, level, quality of care, feasibility, and other criteria as determined by provisions of this Article or by the North Carolina Department of Human Resources pursuant to provisions of this Article prior to such services being offered or developed in order that only appropriate and needed institutional health services are made available in the area to be served.

“§ 131-171. *Definitions.*—As used in this Article, unless the context clearly requires otherwise, the following terms have the meanings specified:

(1) ‘Ambulatory surgical facility’ means a public or private facility, not a part of a hospital, which provides surgical treatment to patients not requiring hospitalization. Such term does not include the offices of private physicians or dentists, whether for individual or group practice.

(2) ‘Bed capacity’ means space used exclusively for inpatient care, including space designed or remodeled for licensed inpatient beds even though temporarily not used for such purposes. The number of beds to be counted in any patient room shall be the maximum number for which adequate square footage is provided as established by regulations of the department except that single beds in single rooms are counted even if the room contains inadequate square footage.

(3) ‘Certificate of need’ means a written order of the department setting forth the affirmative finding that a proposed project sufficiently satisfies the plans, standards, and criteria prescribed for such projects by this Article and by rules and regulations of the department as provided in G.S. 131-176(a) and which affords the person so designated as the legal proponent of the proposed project the opportunity to proceed with the development of such project.

(4) ‘Certified cost estimate’ means an estimate of the total cost of a project certified by the proponent of the project within 60 days prior to or subsequent to the date of submission of the proposed new institutional health service to the department and which is based on:

- a. preliminary plans and specifications,
- b. estimates of the cost of equipment certified by the manufacturer or vendor, and
- c. estimates of the cost of management and administration of the project.

(5) ‘Change of ownership’ means the transfer by purchase, lease or comparable arrangements of the controlling interest of a capital asset or capital stock, or voting rights of a corporation, from one person to another. Such transfer is deemed to occur when fifty percent (50%) or more of an existing

capital asset or capital stock or voting rights of a corporation is purchased, leased or acquired by comparable arrangement by one person from another person.

(6) 'Commencement of construction' means that all of the following have been completed with respect to a project:

- a. a written contract executed between the applicant and a licensed contractor to construct and complete the project within a designated time schedule in accordance with final architectural plans;
- b. required initial permits and approvals for commencing work on the project have been issued by responsible governmental agencies; and
- c. actual construction work on the project has started and a progress payment has been made by the applicant to the licensed contractor under terms of the construction contract.

(7) 'Department' means the North Carolina Department of Human Resources.

(8) 'To develop' when used in connection with health services, means to undertake those activities which will result in the offering of institutional health service not provided in the previous 12-month reporting period or the incurring of a financial obligation in relation to the offering of such a service.

(9) 'Final decision' means an approval, a denial, an approval with conditions, or a deferral.

(10) 'Health care facility' means hospitals; psychiatric hospitals; tuberculosis hospitals; skilled nursing facilities; kidney disease treatment centers, including free-standing hemodialysis units; intermediate care facilities; ambulatory surgical facilities; health maintenance organizations; home health agencies; and diagnostic or therapeutic equipment with a value in excess of one hundred fifty thousand dollars (\$150,000) purchased or leased by a 'person', as defined in this section. 'Health care facility' does not include a facility operated solely as part of the private medical practice of (i) an independent practitioner, (ii) a partnership, or (iii) a professional medical corporation, except with respect to acquisitions of diagnostic or therapeutic equipment with a value in excess of one hundred fifty thousand dollars (\$150,000) if with respect to such acquisition either:

- a. the notice required by G.S. 131-173(e) is not filed in accordance with that paragraph with respect to such acquisition, or
- b. the department finds, within 30 days after the date it receives a notice in accordance with G.S. 131-173(e) with respect to such acquisition, that the equipment will be used to provide services for inpatients of a hospital.

(11) 'Health Maintenance Organization (HMO)' means a public or private organization which:

- a. provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: usual physician services, hospitalization, laboratory, X-ray, emergency and preventive services, and out-of-area coverage;
- b. is compensated, except for copayments, for the provision of the basic health care services listed in subdivision a. of this section to enrolled participants on a predetermined periodic rate basis; and
- c. provides physicians' services primarily (i) directly through physicians who are either employees or partners of such organization, or (ii)

CHAPTER 1182 Session Laws—1977

through arrangements with individual physicians or one or more groups of physicians organized on a group practice or individual practice basis.

(12) 'Health systems agency' means an agency, as defined by P.L. 93-641, as amended, and rules and regulations implementing that act.

(13) 'Home health agencies' means a private organization or public agency, whether owned or operated by one or more persons or legal entities, which furnishes or offers to furnish home health services.

'Home health services' means items and services furnished to an individual by a home health agency, or by others under arrangements with such others made by the agency, on a visiting basis, and except for subdivision e. of this subsection, in a place of temporary or permanent residence used as the individual's home as follows:

- a. part-time or intermittent nursing care provided by or under the supervision of a registered nurse;
- b. physical, occupational or speech therapy;
- c. medical social services, home health aid services, and other therapeutic services;
- d. medical supplies, other than drugs and biologicals, and the use of medical appliances;
- e. any of the foregoing items and services which are provided on an outpatient basis under arrangements made by the home health agency at a hospital or nursing home facility or rehabilitation center and the furnishing of which involves the use of equipment of such a nature that the items and services cannot readily be made available to the individual in his home, or which are furnished at such facility while he is there to receive any such item or service, but not including transportation of the individual in connection with any such item or service.

(14) 'Hospital' means a public or private institution which is primarily engaged in providing to inpatients, by or under supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. Such term does not include psychiatric hospitals, as defined in subdivision (22) of this section, or tuberculosis hospitals, as defined in subdivision (27) of this section.

(15) 'To incur a financial obligation in relation to the offering of a new institutional health service' means that in establishing a new institutional health service a person must fulfill the following performance requirements relative to but not limited to the following types of projects:

- a. new construction or renovation project:
 1. has acquired title or long-term lease to the appropriate site; and
 2. has entered into an enforceable construction contract specifying price and date for commencement of construction within 120 days from the date the contract is entered into; and
 3. has filed with the appropriate State agency and received approval on the complete set of schematic drawings for the project; and
 4. has obtained a financial commitment, including an enforceable offer and acceptance from a financial institution to provide adequate capital financing for the project.

- b. acquisition of equipment: the equipment must either be purchased, the lease agreement must be entered into by the proponent, or if acquired by a comparable arrangement the proponent must have possession of the equipment;
- c. change of ownership by lease or purchase or comparable arrangement:
 - 1. the lease must be entered into; or
 - 2. the title to the property or stock must be in the possession of the proponent.

(16) 'Intermediate care facility' means a public or private institution which provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require health-related care and services above the level of room and board.

(17) 'New institutional health services' means:

- a. the construction, development, or other establishment of a new health care facility;
- b. any expenditure by or on behalf of a health care facility in excess of one hundred fifty thousand dollars (\$150,000) which, under generally accepted accounting principles consistently applied, is a capital expenditure; except that this Article shall not apply to expenditures solely for the termination or reduction of beds or of a health service, but shall apply to expenditures for site acquisitions and acquisition of existing health care facilities. Where a person makes an acquisition by or on behalf of a health care facility under lease or comparable arrangement, or through donation, which would have required review if the acquisition had been by purchase, such acquisition shall be deemed a capital expenditure subject to review. The value of the transaction shall be deemed to be the fair market value of the asset and not necessarily the actual dollar amount of the transaction. Donations shall include bequests. A change in a proposed capital expenditure project which in itself meets the criteria set forth herein shall be considered a capital expenditure, as well as a change in ownership of in excess of fifty percent (50%) of an existing health care facility or the acquisition of in excess of fifty percent (50%) of the assets or capital stock of a health care facility.
- c. a change in bed capacity of a health care facility which increases the total number of beds, or which distributes beds among various categories, subject to the provisions of subdivision j. of this subdivision, or relocates such beds from one physical facility or site to another. Such bed capacity change is subject to review regardless of whether a capital expenditure is made;
- d. health services, including home health services, which are offered in or through a health care facility and which were not offered on a regular basis in or through such health care facility within the 12-month period prior to the time such services would be offered;
- e. a formal internal commitment of funds by a facility for a project undertaken by the facility as its own contractor;
- f. any expenditure by or on behalf of a health care facility in excess of one hundred fifty thousand dollars (\$150,000) made in preparation for the offering or development of a new institutional health service and any

arrangement or commitment made for financing the offering or development of a new institutional health service;

- g. any conversion or upgrading of a facility such that it is converted from a type of facility not covered by this Article to any of the types of health care facilities which are covered by this Article as defined in this section;
- h. a project which substantially expands a service currently offered or which provides a service not offered in the previous 12-month reporting period by the facility, including a change in type of license of five or more beds, subject to the provisions of subdivision j. of this subdivision. Such substantial change of service is subject to review regardless of whether a capital expenditure is made;
- i. the purchase or lease by a person or health care facility of diagnostic or therapeutic equipment, regardless of location, with a value in excess of one hundred fifty thousand dollars (\$150,000), except it shall not include purchase or lease of such equipment with a value in excess of one hundred fifty thousand dollars (\$150,000) for use in a facility operated solely as part of the private medical practice of (i) an independent practitioner, (ii) a partnership, or (iii) a professional medical corporation unless either,
 - 1. the notice required by G.S. 131-173(e) is not filed in accordance with that subsection, or
 - 2. the department finds, within 30 days after it receives a notice under G.S. 131-173(e), that the equipment will be used to provide services for inpatients of a hospital;
- j. The Department of Human Resources is authorized and empowered to adopt rules and regulations, consistent with P.L. 93-641, and federal rules and regulations adopted pursuant to said P.L. 93-641, to permit the interchange of skilled nursing and intermediate care beds within the same health care facility to the maximum degree, extent or number permitted from time to time by said federal rules and regulations without requiring a new certificate of need.

for purposes of this subdivision, the acquisition of one or more items of functionally related diagnostic or therapeutic equipment shall be considered as one project. Purchase or lease shall include purchases, contracts, encumbrances of funds, lease arrangements, conditional sales or a comparable arrangement that purports to be a transfer of ownership in whole or in part. Diagnostic or therapeutic equipment shall include units of equipment and all accessories functionally related and used in the diagnosis and treatment of patients, excluding mechanical and electrical equipment related to basic operation and maintenance of the facility. Functionally related means that pieces of equipment are interdependent to the extent that one piece of equipment is unable to function in the absence of or without the functioning piece, or that one piece of equipment performs the same function as another piece, or that pieces of equipment are normally used together in the provision of a single health care facility service.

(18) 'North Carolina State Health Coordinating Council' means the council as defined by P.L. 93-641, as amended, and rules and regulations implementing that act.

(19) 'To offer', when used in connection with health services, means that the health care facility or health maintenance organization holds itself out as capable of providing, or as having the means for the provision of, specified health services.

(20) 'Person' means an individual, a trust or estate, a partnership, a corporation, including associations, joint stock companies, and insurance companies; the State, or a political subdivision or agency or instrumentality of the State.

(21) 'Project' or 'capital expenditure project' means a proposal to undertake a capital expenditure that results in the offering of a new institutional health service as defined by this act. A project, or capital expenditure project, or proposed project may refer to the project from its earliest planning stages up through the point at which the specified new institutional health service may be offered. In the case of facility construction, the point at which the new institutional health service may be offered must take place after the facility is capable of being fully licensed and operated for its intended use, and at that time it shall be considered a health care facility.

(22) 'Psychiatric hospital' means a public or private institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons.

(23) 'Skilled nursing facility' means a public or private institution or a distinct part of an institution which is primarily engaged in providing to inpatients skilled nursing care and related services for patients who require medical or nursing care, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

(24) 'State Medical Facilities Plan' means a plan prepared by the Department of Human Resources and the North Carolina State Health Coordinating Council, as required by P.L. 93-641, as amended, and rules and regulations implementing that act.

(25) 'State Health Plan' means the plan required by P.L. 93-641, as amended, and rules and regulations implementing that act.

(26) 'State Mental Health Plan' means the plan prepared by the Department of Human Resources under P.L. 94-63 for the purposes of providing an inventory of existing mental health and mental retardation services, and of establishing priorities for the development of new services to adequately meet the identified needs.

(27) 'Tuberculosis hospital' means a public or private institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, medical services for the diagnosis and treatment of tuberculosis.

(28) 'Undertake', with reference to a project or capital expenditure project, means:

- a. constructing, remodeling, installing, or proceeding with a project or any part of a project which exceeds one hundred fifty thousand dollars (\$150,000) in the current fiscal year or can exceed a total of one hundred fifty thousand dollars (\$150,000) in three consecutive fiscal years;
- b. the expenditure or commitment of funds, which exceeds one hundred fifty thousand dollars (\$150,000) in the current fiscal year or can exceed a total of one hundred fifty thousand dollars (\$150,000) in three

subsequent fiscal years, for a project which shall include but not be limited to:

1. construction and financing of the project;
 2. equipment orders, purchases, leases or acquisition through other comparable arrangements or donations;
 3. development of studies, surveys, reports, working drawings, plans and specifications;
 4. acquisitions, purchases, leases, or contracts for necessary developmental services respecting an existing or proposed health facility;
 5. promotion, sponsorship, solicitation or representation or holding out to the public for donations or a fund raising drive for a specified project;
 6. obtaining or securing bonds for a specified project;
 7. executing contracts for the project;
 8. cost of legal fees.
- c. The expenditure or commitment of funds to develop applications, studies, reports, schematics, long-range planning or preliminary plans and specifications certified to cost one hundred fifty thousand dollars (\$150,000) or less shall not be considered to be the undertaking of a project.

“§ 131-172. *Department of Human Resources is designated State Health Planning and Development Agency; powers and duties.*—The Department of Human Resources is designated as the State Health Planning and Development Agency for the State of North Carolina, and is empowered to fulfill responsibilities defined in P.L. 93-641.

The department shall exercise the following powers and duties:

(1) to establish standards and criteria or plans required to carry out the provisions and purposes of this Article and to adopt rules and regulations pursuant to G.S. Chapter 150A;

(2) adopt, amend, and repeal such rules and regulations, consistent with the laws of this State, as may be required by the federal government for grants-in-aid for health care facilities and health planning which may be made available by the federal government. This section shall be liberally construed in order that the State and its citizens may benefit from such grants-in-aid;

(3) define, by regulation, procedures for submission of periodic reports by persons or health facilities subject to agency review under this Article;

(4) develop policy, criteria, and standards for health care facilities planning, conduct statewide inventories of and make determinations of need for health care facilities, and develop a State plan coordinated with other plans of health systems agencies with other pertinent plans and with the State health plan of the department;

(5) implement, by regulation, criteria for project review;

(6) have the power to grant, deny, suspend, or revoke a certificate of need;

(7) solicit, accept, hold and administer on behalf of the State any grants or bequests of money, securities or property to the department for use by the department or health systems agencies in the administration of this Article;

(8) develop procedures for appeals of decisions to approve or deny a certificate of need, as provided by G.S. 131-180;

(9) the Secretary of Human Resources shall have final decision-making authority with regard to all functions described in this section.

“§ 131-173. *Services and facilities requiring certificates of need.*—(a) No person shall undertake new institutional health services or health care facilities without first having obtained a certificate of need as provided by this Article.

(b) Projects subject to certificate of need review shall include ‘new institutional health services’ as defined by this Article.

(c) Where the estimated cost of a proposed project is certified by a licensed architect or engineer to be one hundred fifty thousand dollars (\$150,000) or less, such expenditure shall be deemed not to exceed one hundred fifty thousand dollars (\$150,000) and shall not require review as a capital expenditure regardless of the actual cost of the project, provided that the following conditions are met:

(1) The estimated cost is certified to the department within 60 days of the date of submission of the project upon which the obligation for such expenditure is incurred. Such certified cost estimates shall be available for inspection at the facility and sent to the department upon its request.

(2) The facility on whose behalf the expenditure was made notifies the department in writing within 30 days of the date on which such expenditure is made, if such expenditure exceeded one hundred fifty thousand dollars (\$150,000). Such notice shall include a copy of a certified cost estimate.

(d) The department may grant a certificate of need which permits expenditures only for predevelopment activities, but does not authorize the offering or development of a new institutional health service with respect to which such predevelopment activities are proposed. Expenditures in preparation for the offering of a new institutional health service shall include expenditures for architectural designs, plans, working drawings, and specifications. Such expenditures shall also include those for site acquisition and preliminary plans, studies, and surveys.

(e) Before any person enters into a contractual arrangement to acquire diagnostic or therapeutic equipment with a value in excess of one hundred fifty thousand dollars (\$150,000), which will not be owned by or located in a health care facility, such person shall notify the department of such person’s intent to acquire such equipment. Such notice shall be made in writing on such form as the department shall prescribe and shall be made at least 30 days before contractual arrangements are entered into to acquire the equipment with respect to which the notice is given. For the purposes of this subsection, health care facility does not include a facility operated solely as part of the private medical practice of (i) an independent practitioner, (ii) a partnership, or (iii) a professional medical corporation.

(f) Any local health department under Article 3 of Chapter 130 of the General Statutes which provides a new institutional health service as defined in G.S. 131-171(17) is subject to the provisions of this Article.

“§ 131-174. *Nature of certificate of need.*—(a) A certificate of need shall be valid only for the defined scope, physical location, and person named in the application. A certificate of need shall not be transferable or assignable nor shall a project or capital expenditure project be transferred from one person to

CHAPTER 1182 Session Laws—1977

another. A certificate of need shall be valid for the period of time specified therein.

(b) A certificate of need shall be issued for a 12-month period, or such other lesser period as specified by the department, effective on the date of the department's action. Within the effective period, the legal proponent of the proposed project must perform on the project by fulfilling the specific performance requirements set forth by this act for incurring a financial obligation in relation to the offering of a new institutional health service.

(c) By regulation, the department may define the extent, not to exceed six months, for which a certificate of need may be renewed, provided the applicant by petition makes a good faith showing that, within a reasonable time, he will complete the establishment, construction, or modification of the health care facility, and that he will incur the financial obligation within the extended approval period.

(d) The department shall adopt rules pertaining to the requirement of filing for a certificate of need based on a change of ownership of a health care facility. Any substantial change as to the person who or the partnership which is the operator of a health care facility shall be subject to approval by the department, provided, this provision will not interfere with the authority of the owner of a health care facility to make any change in employment of any administrator who holds a valid license issued by the North Carolina Department of Human Resources. The department shall adopt rules which shall state, at a minimum, that any transfer, assignment or other disposition or change of ownership or control of fifty percent (50%) or more of the capital stock or voting rights thereunder of a corporation which is the operator of a health care facility in the State, or any transfer, assignment, or other disposition of the stock or voting rights thereunder of such corporation which results in the ownership or control of more than fifty percent (50%) of the stock or voting rights thereunder of such corporation by any person shall be subject to approval by the department in accordance with procedures for filing a certificate of need application. In the absence of such approval, the enforcement provisions of G.S. 131-182 may be invoked.

“§131-175. *Application*.—All persons or health care facilities subject to review, as defined in G.S. 131-171 must file an application for a certificate of need with the department. An application for a certificate of need shall be made on the forms provided by the department. This application shall contain such information as the department, by regulation, deems necessary to conduct the review. Such application shall include affirmative evidence on which the department shall make the findings required under this Article, and upon which the department shall make its final decision on the application.

“§131-176. *Review criteria*.—(a) The department shall promulgate rules implementing criteria outlined in this subsection to determine whether an applicant is to be issued a certificate for the proposed project. Criteria so implemented are to be consistent with federal law and regulations and shall cover:

- (1) The relationship of the proposed project to the State Medical Facilities Plan, the State Health Plan, and the State Mental Health Plan.
- (2) The relationship of services reviewed to the long-range development plan of the persons providing or proposing such services.

- (3) The need that the population served or to be served by such services has for such services.
 - (4) The availability of less costly or more effective alternative methods of providing such services.
 - (5) The immediate and long-term financial feasibility of the proposal, as well as the probable impact of the proposal on the costs of and charges for providing health services.
 - (6) The relationship of the services proposed to be provided to the existing health care system of the area in which such services are proposed to be provided.
 - (7) The availability of resources, including health manpower, management personnel, and funds for capital and operating needs, for the provision of the services proposed to be provided and the availability of alternative uses of such resources for the provision of other health services.
 - (8) The relationship, including the organizational relationship, of the health services proposed to be provided to ancillary or support services.
 - (9) Special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas. Such entities may include medical and other health professions schools, multidisciplinary clinics and specialty centers.
 - (10) The special needs and circumstances of health maintenance organizations for which assistance may be provided under Title XIII of the Public Health Service Act. Such needs and circumstances include the needs of and costs to members and projected members of the health maintenance organization in obtaining health services and the potential for a reduction in the use of inpatient care in the community through an extension of preventive health services and the provision of more systematic and comprehensive health services. The consideration of a new institutional health service proposed by a health maintenance organization shall also address the availability and cost of obtaining the proposed new institutional health service from the existing providers in the area that are not health maintenance organizations.
 - (11) The special needs and circumstances of biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages.
 - (12) In the case of a construction project, the costs and methods of the proposed construction, including the costs and methods of energy provision, and the probable impact of the construction project reviewed on the costs of providing health services by the person proposing the construction project.
 - (13) The need that the medically underserved portion of the population, especially those people located in rural or economically depressed areas, has for such services, and the extent to which the project under review proposes to meet that need.
- (b) Criteria adopted for reviews in accordance with subsection (a) of this section may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed.

CHAPTER 1182 Session Laws—1977

“§ 131-177. *Review process.*—(a) Except as provided in subsection (c) of this section there shall be a time limit of 90 days for review of the project beginning on the day the department declares the application ‘complete for review’, as established by departmental regulations.

(1) The appropriate Health Systems Agency shall review each application for a certificate of need in accord with its adopted plans, standards, criteria, and procedures, and shall submit its comments thereon to the department within 60 days after receipt of a complete application by the department. The comments may include a recommendation to approve the application, to approve the application with conditions, to defer the application, or to deny the application. Suggested modifications, if any, shall relate directly to the project under review.

(2) The appropriate Health Systems Agency shall, during the course of its review, provide an opportunity for a public meeting at which interested persons may introduce testimony and exhibits.

(3) Any person may file written comments and exhibits concerning a proposal under review with the appropriate Health Systems Agency and the department.

(b) The department shall issue as provided in this Article a certificate of need with or without conditions or reject the application within the review period. If the department fails to act within such period, the failure to act shall constitute denial of the application.

(c) The department shall promulgate rules establishing criteria for determining when it would not be practicable to complete a review within 90 days from receipt of a completed application. If the department finds that these criteria are met for a particular project, it may extend the review period for a period not to exceed 60 days and provide notice of such extension to all affected persons.

“§ 131-178. *Final decision.*—The department shall send its decision along with written findings to the person proposing the new institutional health service and to the Health Systems Agency for the health service area in which the new service is proposed to be offered or developed. In the case of a final decision to ‘approve’ or ‘approve with conditions’ a proposal for a new institutional health service, the department shall issue a certificate of need to the person proposing the new institutional health service.

“§ 131-179. *Written notice of decision.*—The department shall, within 15 days after it makes a final decision on an application, provide in writing to the applicant, to the appropriate Health Systems Agency and, upon request to affected persons, the findings and conclusions on which it based its decision, including but not limited to the criteria used by the department in making such decision.

“§ 131-180. *Rights of appeal and judicial review.*—(a) In fulfilling the functions and duties of this Article the department shall comply with the North Carolina Administrative Procedures Act, G.S. Chapter 150A.

(b) Any proponent of a new institutional health service or capital expenditure project or any person who qualifies as a ‘party’ or ‘person aggrieved’ under G.S. 150A-2 shall have all the rights of appeal and judicial review available under Articles 3 and 4 of G.S. Chapter 150A.

(c) In the instance that the department makes a recommendation on review of a project which is inconsistent with a recommendation made by a particular

Health Systems Agency, the department shall submit a written, detailed statement of the reasons for the inconsistency. The Health Systems Agency may request an appeal under the North Carolina Administrative Procedures Act, G.S. Chapter 150A.

“§ 131-181. *Forfeiture of certificate of need.*—The department may revoke a certificate of need, for failure to perform on the certificate of need, based on rules adopted by the department. The department may revoke a certificate of need for, including but not necessarily limited to, the following reasons:

(1) For failure to satisfy within 180 days following issuance of the certificate of need any performance requirements that may be set forth by the department.

(2) After review, upon 12 months' duration of approval, for failure to incur the financial obligation for a capital expenditure as defined in this Article.

(3) After notice and a fair hearing on proof that a person who has been awarded a certificate of need, and who before completion of the project and operation of the facility, has attempted to or has transferred or conveyed more than five percent (5%) ownership or control in a facility without prior written approval of the department. Transfers resulting from personal illness or other good cause, as determined by the department, may be exempt from this provision based on rules adopted by the department. Transfers resulting from death shall be exempt from this provision.

“§ 131-182. *Enforcement and sanctions.*—(a) Only those new institutional health services which are found by the department to be needed as provided in this Article and granted certificates of need shall be offered or developed within the State.

(b) No expenditures in excess of one hundred fifty thousand dollars (\$150,000) in preparation for the offering or development of a new institutional health service shall be made by any person unless a certificate of need for such service or activities has been granted, except as otherwise provided in G.S. 131-173.

(c) No formal commitments made for financing, construction, or acquisition regarding the offering or development of a new institutional health service shall be made by any person unless a certificate of need for such service or activities has been granted.

(d) Nothing in this Article shall be construed as terminating the P.L. 92-603, Section 1122 capital expenditure program or the contract between the State of North Carolina and the United States under that program. The sanctions available under that program and contract, with regard to the determination of whether the amounts attributable to an applicable project or capital expenditure project should be included or excluded in determining payments to the proponent under Titles V, XVIII, and XIX of the Social Security Act, shall remain available to the State.

(e) If any health care facility proceeds to offer or develop a new institutional health service without having first obtained a certificate of need for such services, the penalty for such violation of this Article and rules and regulations hereunder is the withholding of federal and State funds under Titles V, XVIII, and XIX of the Social Security Act for reimbursement of capital and operating expenses related to the provision of the new institutional health service.

(f) If any health care facility proceeds to offer or develop a new institutional health service without having first obtained a certificate of need for such services, the licensure for such facility may be revoked or suspended by the

CHAPTER 1182 Session Laws—1977

Medical Care Commission, or the Commission for Health Services, as appropriate.

(g) A civil penalty of not more than twenty thousand dollars (\$20,000) may be assessed by the department against any person who knowingly offers or develops any new institutional health service within the meaning of this Article without a certificate of need issued under this Article and the rules and regulations pertaining thereto, or in violation of the terms of such a certificate. In determining the amount of the penalty the department shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage. The department may assess the penalties provided for in this subsection. Any person assessed shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the department within 30 days after receipt of notice, or such longer period, not to exceed 180 days, as the department may specify, the department may institute a civil action in the superior court of the county in which the violation occurred or, in the discretion of the department, in the superior court of the county in which the person assessed has its principal place of business, to recover the amount of the assessment. In any such civil action, the scope of the court's review of the department's action (which shall include a review of the amount of the assessment), shall be as provided in Chapter 150A of the General Statutes. For the purpose of this subsection, the word 'person' shall not include an individual in his capacity as an officer, director, or employee of a person as otherwise defined in this Article.

(h) No agency of the State or any of its political subdivisions may appropriate or grant funds or financially assist in any way a person, applicant, or facility which is or whose project is in violation of this Article.

(i) If any health care facility proceeds to offer or develop a new institutional health service without having first obtained a certificate of need for such services, the Secretary of Human Resources or any person aggrieved, as defined by G.S. 150A-2(6) may bring a civil action for injunctive relief, temporary or permanent, against the person offering, developing or operating any new institutional health service.

"§ 131-183. *Venue*.—(a) Any action brought by a 'person aggrieved', as defined by G.S. 150A-2(6), to enforce the provisions of this Article against any health care facility, as defined in G.S. 131-171(10) or its agents or employees, may be brought in the superior court of any county in which the cause of action arose or in the county in which the health care facility is located, or in Wake County.

(b) An action brought by a 'party', as defined by G.S. 150A-2(5), who has exhausted all administrative remedies made available to that party by statute or rules and regulations, may be brought in the Superior Court of Wake County at any time after a final decision by the department. Such action must be filed not later than 30 days after a written copy of the final decision by the department is given by personal service or registered or certified mail to the person seeking judicial review."

Sec. 3. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair the remaining provisions.

Sec. 4. This act shall become effective January 1, 1979.

This act shall not apply to any project which has received approval under the Section 1122, P.L. 92-603 program prior to January 1, 1979, as long as construction has commenced before January 1, 1980.

This act shall not apply to any project for which application is made under the Section 1122, P.L. 92-603 program between July 1, 1978, and January 1, 1979, if such application is approved, and construction has commenced before January 1, 1980.

Rules and Regulations under this act may be issued at any time after the date of ratification of this act, but shall not become effective prior to January 1, 1979.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 1023 CHAPTER 1183

AN ACT TO ESTABLISH REQUIREMENTS FOR LICENSES FOR COMMERCIAL FISHING VESSELS OWNED BY NONRESIDENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-161 is hereby rewritten to read as follows:

"§ 113-161. *Nonresidents reciprocal agreements.*—Persons who are not residents of North Carolina are not entitled to obtain licenses under the provisions of G.S. 113-152 except as hereinafter provided. Residents of jurisdictions which sell commercial fishing licenses to North Carolina residents are entitled to North Carolina commercial fishing licenses under the provisions of G.S. 113-152. Such licenses may be restricted in terms of area, gear and fishery by the commission so that the nonresidents are licensed to engage in North Carolina fisheries on the same or similar terms that North Carolina residents can be licensed to engage in the fisheries of such other jurisdiction. The secretary may enter into such reciprocal agreements with other jurisdictions as are necessary to allow nonresidents to obtain commercial fishing licenses in North Carolina subject to the foregoing provisions."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 931 CHAPTER 1184

AN ACT TO REQUIRE HOME HEALTH SERVICES IN EVERY COUNTY, SO AS TO IMPLEMENT THE RECOMMENDATIONS OF THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON AGING.

The General Assembly of North Carolina enacts:

Section 1. General Statutes Chapter 130 is amended by adding a new section to read as follows:

"§ 130-170.2. *Home health services to be provided in all counties.*—(a) Every county shall provide home health services as defined in G.S. 130-170.1(a).

(b) For the purpose of this section, home health services shall be as defined in G.S. 130-170.1(a), except that such services may be provided by any organization listed in subsection (c) of this section.

(c) Home health services may be provided by a county health department, by a district health department, by a home health agency licensed under G.S.

CHAPTER 1184 Session Laws—1977

130-170.1, or by a public agency. The county may provide home health services by contract with another health department, or with a home health agency or public agency in another county.”

Sec. 2. The provisions of this act shall not apply to the counties of Bladen, Hyde, Jones, and Pamlico until January 1, 1980.

Sec. 3. This act shall become effective January 1, 1979.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 914 CHAPTER 1185

AN ACT TO PROVIDE THAT THE THEFT OF CABLE TELEVISION SERVICE SHALL BE A MISDEMEANOR.

The General Assembly of North Carolina enacts:

Section 1. Chapter 14 of the General Statutes is amended by inserting a new section to read as follows:

“§ 14-118.5. *Theft of cable television service.*—(a) It shall be unlawful for any person, firm, or corporation to intentionally defraud or to aid and abet another to defraud any person or corporation of the lawful charge, in whole or in part, for any cable television service.

(b) It shall be unlawful for any person, firm, or corporation to intentionally avoid or attempt to avoid or cause or assist another to avoid or attempt to avoid any charge for such service by rearranging, tampering with, or making connection with any facilities or equipment of a cable television company, whether physically, inductively, acoustically, or electrically.

(c) It shall be unlawful for any person, firm, or corporation to advertise or promote the sale of any instrument, apparatus, equipment, or device, or plans or instruction for making or assembling the same, which instrument, apparatus, equipment, or device is designed or adapted to fraudulently avoid the lawful charge for any cable television service in violation of subsections (a) or (b) of this section.

(d) Any person, firm, or corporation that violates the provisions of this section shall be guilty of a misdemeanor punishable by a fine not to exceed three hundred dollars (\$300.00) or by imprisonment for not more than 60 days, or both, in the discretion of the court.

(e) Provided, however, subsections (a) and (b) of this section shall not apply to natural persons receiving cable television service pursuant to contract.”

Sec. 2. G.S. 14-155, as it appears in the 1977 Cumulative Supplement to Volume 1B, is amended by striking from the catchline and lines 2 and 3 the words, “telephone, telegraph or cable television”, and substituting therefor the words, “telephone or telegraph”.

Sec. 3. This act shall become effective on October 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1013

CHAPTER 1186

AN ACT TO AMEND THE CHILD SUPPORT ACT OF 1975 AS SET FORTH IN ARTICLE 9, CHAPTER 110 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-128, as the same appears in the 1975 Supplement to Volume 3A of the General Statutes, is hereby amended by deleting from line 3 thereof the word “needy” and substituting therefor the word “dependent” and, further, by inserting on line 3 thereof between the words “support” and “provided” the words “required to be” and, further, by deleting the period at the end thereof and substituting therefor a semicolon and the following:

“and to provide for the establishment and administration of a program of child support enforcement in North Carolina.”

Sec. 2. G.S. 110-129(3), as the same appears in the 1975 Cumulative Supplement to Volume 3A of the General Statutes, is hereby amended by inserting on line 3 thereof a period after the word “child” and deleting the remainder of the sentence.

Sec. 3. G.S. 110-129 is hereby further amended by adding the following subdivisions at the end thereof:

“(4) ‘Program’ means the Child Support Enforcement Program established and administered pursuant to the provisions of this Article and Title IV-D of the Social Security Act.”

(5) ‘Designated representative’ means any person or agency designated by a board of county commissioners or the Department of Human Resources to administer a program of child support enforcement for a county or region of the State.”

Sec. 4. G.S. 110-130, as the same appears in the 1975 Supplement to Volume 3A of the General Statutes, is hereby amended by inserting on line 3 thereof between the words “civil” and “proceedings” the words “or criminal” and, further, by deleting from lines 7 and 8 the words “of the county commissioners”.

Sec. 5. G.S. 110-132(a), as the same appears in the 1975 Supplement to Volume 3A of the General Statutes, is hereby amended by deleting from lines 12 and 13 the words “clerk or assistant clerk of superior court” and substituting therefor the words “certifying officer or notary public or the equivalent or corresponding person of the state, territory, or foreign country where the acknowledgment is made” and, further, by deleting the second sentence thereof.

Sec. 6. G.S. 110-132(b), as the same appears in the 1975 Supplement to Volume 3A of the General Statutes, is hereby amended by deleting the second and fourth sentences thereof.

Sec. 7. G.S. 110-133, as the same appears in the 1975 Supplement to Volume 3A of the General Statutes, is hereby amended by deleting from lines 4 and 5 the words “clerk or assistant clerk of superior court” and substituting therefor the words “certifying officer or notary public or the equivalent or corresponding person of the state, territory or foreign country where the acknowledgment is made” and, further, by deleting the last sentence thereof.

Sec. 8. G.S. 110-134, as the same appears in the 1978 Replacement to Volume 3A Part I of the General Statutes, is hereby amended to read as follows:

“§ 110-134. *Filing of affirmations, acknowledgments, agreements and orders; fees.*—All affirmations, acknowledgments, agreements and resulting orders

CHAPTER 1186 Session Laws—1977

entered into under the provisions of G.S. 110-132 and G.S. 110-133 shall be filed by the clerk of superior court in the county in which they are entered. The filing fee for the institution of an action through the entry of an order under either of these provisions shall be four dollars (\$4.00)."

Sec. 9. G.S. 110-135, as the same appears in the 1975 Supplement to Volume 3A of the General Statutes, is hereby amended by deleting therefrom the first paragraph and substituting therefor the following paragraph:

"Acceptance of public assistance by or on behalf of a dependent child creates a debt, in the amount of public assistance paid, due and owing the State by the responsible parent or parents of the child. Provided, however, that in those cases in which child support was required to be paid incident to a court order during the time of receipt of public assistance, the debt shall be limited to the amount specified in such court order. This liability shall attach only to public assistance granted subsequent to June 30, 1975, and only with respect to the period of time during which public assistance is granted, and only if the responsible parent or parents were financially able to furnish support during this period."

Sec. 10. G.S. 110-135 is hereby further amended by deleting the last sentence therefrom and substituting therefor the following sentence:

"The county attorney or an attorney retained by the county and/or State shall represent the State in all proceedings brought under this section."

Sec. 11. G.S. 110-136, as the same appears in the 1975 Supplement to Volume 3A of the General Statutes, is hereby amended by deleting the words "20 percent (20%)" from line 8 of subsection (a), line 10 of subsection (b), and lines 4 and 5 of subsection (c) and substituting therefor the words "25 percent (25%)".

Sec. 12. G.S. 110-136(b), as the same appears in the 1975 Supplement to Volume 3A of the General Statutes, is hereby amended by deleting from line 1 thereof the word "county" and substituting therefor the words "designated representative".

Sec. 13. G.S. 110-137, as the same appears in the 1975 Supplement to Volume 3A of the General Statutes, is hereby amended by inserting in the catch line between the words "the" and "county" the words "State or", and further, by inserting on line 3 thereof between the words "assignment" and "to" the words "to the State or" and, further, by inserting on line 5 thereof between the words "The" and "county" the words "State or".

Sec. 14. G.S. 110-138, as the same appears in the 1975 Supplement to Volume 3A of the General Statutes, is hereby amended by inserting on line 6 thereof between the words "shall" and "notify" the words "without delay" and, further, by deleting from lines 6 and 7 thereof the words "of the county commissioners".

Sec. 15. G.S. 110-139, as the same appears in the 1975 Supplement to Volume 3A of the General Statutes, is hereby amended by inserting on line 17 thereof between the words "All" and "records" the word "nonjudicial".

Sec. 16. G.S. 110-141, as the same appears in the 1975 Supplement to Volume 3A of the General Statutes, is hereby amended to read as follows:

"§ 110-141. *Effectuation of intent of Article.*—The North Carolina Department of Human Resources shall supervise the administration of this program in accordance with federal law and shall cause the provisions of this

Article to be effectuated and to secure child support from absent, deserting, abandoning and nonsupporting parents.

In the event that a board of county commissioners fails to appoint a designated representative or notifies the Department of Human Resources at any time that it does not desire to continue to administer the program, it shall then become the duty of the Department of Human Resources to administer or provide for the administration of the program for said county within 30 days of such failure or notification."

Sec. 17. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1424

CHAPTER 1187

AN ACT TO CLARIFY THE PROVISIONS OF THE STATUTES RELATING TO MOBILE HOME PERMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-316.1, G.S. 105-316.5 and G.S. 105-316.6 are hereby amended by deleting the words "moving permit" wherever those words shall appear conjunctively in those statutes, and by inserting in lieu thereof the words, "tax permit".

Sec. 2. G.S. 105-316.1(b) is hereby rewritten to read as follows:

"(b) Except as provided in G.S. 105-316.4, manufacturers, retailers and licensed carriers of mobile homes shall not be required to obtain the tax permits required by this act. Persons or firms transporting mobile homes shall, however, be responsible for seeing that a proper license tag, and when required under this section, a tax permit, are properly displayed thereon at all times during their transportation."

Sec. 3. G.S. 105-316.4 is hereby amended to read as follows:

"§ 105-316.4. *Issuance of permits under repossession.*—Notwithstanding the provisions of G.S. 105-316.2(a) and G.S. 105-316.3(a), above, any person who intends to take possession of a mobile home, whether by judicial or nonjudicial authority, as a holder of a lien on said mobile home shall apply for, and be issued, the permit herein provided without paying all taxes due to be paid by the owner of the mobile home being repossessed, upon notifying the tax collector of the location in North Carolina to which the mobile home is to be taken. At the time of notification the tax collector shall render to the holder of the lien a statement of taxes due against only the mobile home. Within seven days of the issuance of the permit the applicant shall pay to the tax collector the taxes due as set forth in the statement.

Notwithstanding the foregoing, any applicant who is a nonresident of North Carolina must pay the taxes due as set forth above at the time of notification to the tax collector and application for the permit.

Upon issuance of the permit and the payment of any taxes as prescribed herein, the mobile home shall no longer be subject to levy or attachment of any lien for any other taxes then owed by the owner thereof, whether or not previously determined."

Sec. 4. Subsections (a), (b) and (c) of G.S. 105-316.6 are hereby amended by deleting the words and figures "fifty dollars (\$50.00)" wherever the same

CHAPTER 1187 Session Laws—1977

shall appear in those subsections and by substituting in lieu thereof the words and figures "two hundred fifty dollars (\$250.00)".

Sec. 5. Subsection (d) of G.S. 105-316.6 is hereby rewritten to read as follows:

"(d) Any law enforcement officer of this State who apprehends any person violating the provisions of this Article shall detain such person and mobile home until satisfactory arrangements have been made to meet the requirements of this Article."

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1562 CHAPTER 1188

AN ACT TO PERMIT THE LIMITED OPERATION OF THE GAME OF BINGO IN CUMBERLAND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is lawful for charitable, civic, fraternal, religious and veterans' organizations which have been in continuous existence for one year in this State to operate the game of bingo in Cumberland County.

Sec. 2. The gross proceeds obtained from the operation of the game of bingo, except for prize money, must go into the treasury of the organization operating the game of bingo. No organization shall pay salaries or commissions to persons operating bingo games.

Sec. 3. An organization may operate the game of bingo only one day per week for a maximum period of six hours on that day.

Sec. 4. The highest prize which an organization may offer on each day that it operates the game of bingo is five hundred dollars (\$500.00).

Sec. 5. Chapter 491 of the 1977 Session Laws is amended in Section 9 by inserting immediately before the word "McDowell" the following: "Edgecombe".

Sec. 6. Chapter 561 of the 1949 Session Laws is amended in Section 1 by striking the words, "Edgecombe County".

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1634 CHAPTER 1189

AN ACT TO AMEND PART 15 OF CHAPTER 143B OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Part 15 of Chapter 143B shall be rewritten as follows:

"Part 15.

"North Carolina State Commission of Indian Affairs.

"§ 143B-404. *North Carolina State Commission of Indian Affairs; creation; name.*—There is hereby created and established the North Carolina State Commission of Indian Affairs. The commission shall be administered under the direction and supervision of the Department of Administration pursuant to G.S. 143A-6(b) and (c).

“§ 143B-405. *North Carolina State Commission of Indian Affairs; purposes for creation.*—The purposes of the commission shall be to deal fairly and effectively with Indian affairs; to bring local, State, and federal resources into focus for the implementation or continuation of meaningful programs for Indian citizens of the State of North Carolina; to provide aid and protection for Indians as needs are demonstrated; to prevent undue hardships; to assist Indian communities in social and economic development; and to promote recognition of and the right of Indians to pursue cultural and religious traditions considered by them to be sacred and meaningful to Native Americans.

“§ 143B-406. *North Carolina State Commission of Indian Affairs; duties; use of funds.*—It shall be the duty of the commission to study, consider, accumulate, compile, assemble and disseminate information on any aspect of Indian affairs; to investigate relief needs of Indians of North Carolina and to provide technical assistance in the preparation of plans for the alleviation of such needs; to confer with appropriate officials of local, State and federal governments and agencies of these governments, and with such congressional committees that may be concerned with Indian affairs to encourage and implement coordination of applicable resources to meet the needs of Indians in North Carolina; to cooperate with and secure the assistance of the local, State and federal governments or any agencies thereof in formulating any such programs, and to coordinate such programs with any programs regarding Indian affairs adopted or planned by the federal government to the end that the State Commission of Indian Affairs secure the full benefit of such programs; to review all proposed or pending State legislation and amendments to existing State legislation affecting Indians in North Carolina; to conduct public hearings on matters relating to Indian affairs and to subpoena any information or documents deemed necessary by the commission; to study the existing status of recognition of all Indian groups, tribes and communities presently existing in the State of North Carolina; to establish appropriate procedures to provide for legal recognition by the State of presently unrecognized groups; to provide for official State recognition by the commission of such groups; and to initiate procedures for their recognition by the federal government.

“§ 143B-407. *North Carolina State Commission of Indian Affairs; membership; term of office; chairman; compensation.*—(a) The State Commission of Indian Affairs shall consist of the Speaker of the House of Representatives, the Lieutenant Governor, the Secretary of Human Resources, the Director of the State Employment Security Commission, the Secretary of Administration, the Secretary of Natural Resources and Community Development, the Commissioner of Labor or their designees and 15 representatives of the Indian community. These 15 Indian members shall be selected by tribal or community consent from the Indian groups that are recognized by the State of North Carolina and are principally geographically located as follows: the Coharie of Sampson and Harnett Counties; the Haliwa of Halifax, Warren, and adjoining counties; the Lumbees of Robeson, Hoke and Scotland Counties; the Waccamaw-Siouan from Columbus and Bladen Counties; and the Native Americans located in Cumberland, Guilford and Mecklenburg Counties. The Coharie shall have two members; the Haliwa, two; the Lumbees, three; the Waccamaw-Siouan, two; the Cumberland County Association for Indian People, two; the Guilford Native Americans, two; the Metrolina Native Americans, two. If the Eastern Band of Cherokees should choose to participate,

then they shall have two members on the commission thereby bringing the total Indian membership to 17.

(b) Members serving by virtue of their office within State government shall serve so long as they hold that office. Members representing Indian tribes and groups shall be elected by the tribe or group concerned and shall serve for three-year terms except that at the first election of commission members by tribes and groups one member from each tribe or group shall be elected to a one-year term, one member from each tribe or group to a two-year term, and one member from the Lumbees to a three-year term. Thereafter, all commission members will be elected to three-year terms. All members shall hold their offices until their successors are appointed and qualified. Vacancies occurring on the commission shall be filled by the tribal council or governing body concerned. Any member appointed to fill a vacancy shall be appointed for the remainder of the term of the member causing the vacancy. The Governor shall appoint a chairman of the commission from among the Indian members of the commission, subject to ratification by the full commission.

(c) Commission members who are seated by virtue of their office within the State government shall be compensated at the rate specified in G.S. 138-6. Commission members who are members of the General Assembly shall be compensated at the rate specified in G.S. 120-3.1. Indian members of the commission shall be compensated at the rate specified in G.S. 138-5.

"§ 143B-408. *North Carolina State Commission of Indian Affairs, meetings, quorum, proxy vote.*—(a) The commission shall meet quarterly, and at any other such time that it shall deem necessary. Meetings may be called by the chairman or by a petition signed by a majority of the members of the commission. Ten days' notice shall be given in writing prior to the meeting date.

(b) Simple majority of the Indian members of the commission must be present to constitute a quorum.

(c) Proxy vote shall not be permitted.

"§ 143B-409. *North Carolina State Commission of Indian Affairs, reports.*—The commission shall prepare a written annual report giving an account of its proceedings, transactions, findings, and recommendations. This report shall be submitted to the Governor and the legislature. The report will become a matter of public record and will be maintained in the State Historical Archives. It may also be furnished to such other persons or agencies as the commission may deem proper.

"§ 143B-410. *North Carolina State Commission of Indian Affairs, fiscal records, clerical staff.*—Fiscal records shall be kept by the Secretary of Administration and will be subject to annual audit by a certified public accountant. The audit report will become a part of the annual report and will be submitted in accordance with the regulations governing preparation and submission of the annual report.

"§ 143B-411. *North Carolina State Commission of Indian Affairs, executive director, employees.*—The commission may, subject to legislative or other funds that would accrue to the commission, employ an executive director to carry out the day-to-day responsibilities and business of the commission. The executive director, also subject to legislative or other funds that would accrue to the commission, may hire additional staff and consultants to assist in the discharge of his responsibilities, as determined by the commission. The executive director shall not be a member of the commission, and shall be of Indian descent."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1680

CHAPTER 1190

AN ACT TO CLARIFY A 1977 AMENDMENT TO G.S. 50-6 AND TO VALIDATE IRREGULAR DIVORCES ENTERED UNDER ITS PROVISIO AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-6 as the same appears in the 1977 Cumulative Supplement to Volume 2A of the General Statutes is hereby amended by deleting the third sentence and substituting in lieu thereof the following:

"A plea of *res judicata* or of recrimination, with respect to any provision of G.S. 50-5 or of G.S. 50-7, shall not be a bar to either party's obtaining a divorce under this section. Notwithstanding the provisions of G.S. 50-11, or of the common law, a divorce under this section obtained by a supporting spouse shall not affect the rights of a dependent spouse with respect to alimony which have been asserted in the action or any other pending action."

Sec. 2. In an action initiated after August 1, 1977, a judgment of divorce under G.S. 50-6, entered before the effective date of this act and when there was no pending action for support or alimony, shall be valid even though the court did not make a determination that there was no such pending action or a determination that all claims for support or alimony had been fully and finally adjudicated.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1539

CHAPTER 1191

AN ACT TO AMEND G.S. CHAPTER 143, ARTICLE 33B, THE NORTH CAROLINA OPEN MEETINGS LAW, BY CLARIFYING THE LAW AND BY INCLUDING A REQUIREMENT OF PUBLIC NOTICE OF OFFICIAL MEETINGS; AND TO AMEND CHAPTER 959, 1977 SESSION LAWS, TO PROVIDE THAT THE OPEN MEETINGS STUDY COMMISSION SHALL REPORT TO THE 1979 GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-318.1 is rewritten to read as follows:

"§ 143-318.1. *Public policy.*—Whereas the public bodies that administer the legislative, policy-making, quasi-judicial, administrative, and advisory functions of this State and its political subdivisions exist solely to conduct the people's business, it is the public policy of this State that the hearings, deliberations, and actions of these bodies be conducted openly."

Sec. 2. G.S. 143-318.2 is rewritten to read as follows:

"§ 143-318.2. *All official meetings open to the public.*—(a) Except as provided in G.S. 143-318.3, G.S. 143-318.4, and G.S. 143-318.5, each official meeting of a public body shall be open to the public, and any person is entitled to attend such a meeting.

CHAPTER 1191 Session Laws—1977

(b) As used in this Article, 'public body' means any authority, board, commission, committee, council, or other body of the State, or of one or more counties, cities, school administrative units, or other political subdivisions or public corporations in the State that is composed of two or more members and

(1) exercises or is authorized to exercise any legislative, policy-making, quasi-judicial, administrative, or advisory function; and

(2) is established by (i) the State Constitution, (ii) an act or resolution of the General Assembly, (iii) a resolution or order of a State agency, pursuant to a statutory procedure under which the agency establishes a political subdivision or public corporation, (iv) an ordinance, resolution, or other action of the governing board of one or more counties, cities, school administrative units, or other political subdivisions or public corporations, or (v) an Executive Order of the Governor or formal action of the head of a principal State office or department, as defined in G.S. 143A-11 and G.S. 143B-6, or of a division thereof.

In addition, 'public body' means a committee of a public body and the governing board of a 'public hospital', as defined in G.S. 159-39. This provision shall not apply to committees which are not policy making bodies of public hospitals.

(c) 'Public body' does not include and shall not be construed to include meetings among the professional staff of a public body, unless the staff members have been appointed to and are meeting as an authority, board, commission, committee, council, or other body established by one of the methods listed in subdivision (b)(2) of this section.

(d) 'Official meeting' means any meeting, assembly, or gathering together at any time or place of a majority of the members of a public body for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting the public business within the jurisdiction, real or apparent, of the public body; provided, however, a social meeting or other informal assembly or gathering together of the members of a public body does not constitute an official meeting unless called or held to evade the spirit and purposes of this Article."

Sec. 3. G.S. 143-318.3, as it appears in the 1978 Replacement of Volume 3C, is amended as follows:

(a) Subsection (a) is amended in lines 1 and 2 by deleting the words "Any of the bodies specified in G.S. 143-318.1" and inserting in lieu thereof the words "A public body".

(b) Subdivision (a)(5) is amended by deleting the words "governing or governmental" and inserting in lieu thereof the word "public".

(c) Subsection (b) is amended in lines 1 and 2 by deleting the words "governing or governmental body specified in G.S. 143-318.1" and inserting in lieu thereof the words "public body".

(d) Subsection (b) is further amended in line 8 by deleting the words "said governing" and inserting in lieu thereof the words "the public".

(e) Subsection (b) is further amended by rewriting line 11 to read: "considering and deciding in closed session (1) disciplinary cases involving students and (2) questions of reassignments of pupils under G.S. 115-178."

Sec. 4. G.S. 143-318.4, as it appears in the 1978 Replacement of Volume 3C, is amended as follows:

(a) Paragraph (3) is rewritten as follows: "(3) The Department of Correction."

(b) Paragraph (4) is rewritten as follows: “(4) The Judicial Standards Commission.”

(c) Paragraph (9) is amended by striking the words “board enumerated in G.S. 150-9 and every” in the first line thereof; and by inserting between the word “any” and the word “profession” in line 4 and in line 7 the words “occupation or”.

(d) A new paragraph (11) is added, to read as follows: “(11) Any public body that is specifically authorized or directed by law to meet in executive or confidential session, to the extent of the authorization or direction.”

Sec. 5. Article 33B of General Statutes Chapter 143 is amended by adding a new section at the end thereof to read as follows:

“§ 143-318.8. *Public notice of official meetings.*—(a) If a public body has established, by ordinance, resolution, or otherwise, a schedule of regular meetings, it shall cause a current copy of that schedule, showing the time and place of regular meetings, to be kept on file as follows:

(1) for public bodies that are part of State government, with the Secretary of State;

(2) for the governing board and each other public body that is part of a county government, with the clerk to the board of county commissioners;

(3) for the governing board and each other public body that is part of a city government, with the city clerk;

(4) for each other public body, with its clerk or secretary, or, if the public body does not have a clerk or secretary, with the clerk to the board of county commissioners in the county in which the public body normally holds its meetings.

If a public body changes its schedule of regular meetings, it shall cause the revised schedule to be filed as provided in subdivisions (1) through (4) of this subsection at least seven calendar days before the day of the first meeting held pursuant to the revised schedule.

(b) If a public body holds an official meeting at any time or place other than a time or place shown on the schedule filed pursuant to subsection (a) of this section, it shall give public notice of the time and place of that meeting as provided in this subsection.

(1) If a meeting is an adjourned or recessed session of a regular meeting or of some other meeting, notice of which has been given pursuant to this subsection, and the time and place of the adjourned or recessed session has been set during the regular or other meeting, no further notice is necessary.

(2) For any other meeting, except an emergency meeting, the public body shall cause written notice of the meeting (i) to be posted on the principal bulletin board of the public body or, if the public body has no such bulletin board, at the door of its usual meeting room, and (ii) to be mailed or delivered to each newspaper, wire service, radio station, and television station that has filed a written request for notice with the clerk or secretary of the public body or with some other person designated by the public body. This notice shall be posted and mailed or delivered at least 48 hours before the time of the meeting. The public body may require each newspaper, wire service, radio station, and television station submitting a written request for notice to renew the

CHAPTER 1191 Session Laws—1977

request annually and may charge a reasonable fee, not to exceed ten dollars (\$10.00) annually, to cover the cost of mailed or delivered notice.

- (3) For an emergency meeting, the public body shall cause notice of the meeting to be given to each local newspaper, local wire service, local radio station, and local television station that has filed a written request, which includes the newspaper's, wire service's, or station's telephone number, for emergency notice with the clerk or secretary of the public body or with some other person designated by the public body. This notice shall be given either by telephone or by the same method used to notify the members of the public body and shall be given immediately after the notice has been given to those members. This notice shall be given at the expense of the party notified. An 'emergency meeting' is one called because of generally unexpected circumstances that require immediate consideration by the public body. Only business connected with the emergency may be considered at a meeting to which notice is given pursuant to this subdivision.

(c) This section does not apply to the General Assembly. Each house of the General Assembly shall provide by rule for notice of meetings of legislative committees and subcommittees."

Sec. 6. G.S. 153A-40 is amended by adding a new paragraph at the end of subsection (b) of that section to read as follows:

"In addition to the procedures set out in this subsection, a person or persons calling a special or emergency meeting of the board of commissioners shall comply with the notice requirements of Article 33B of General Statutes Chapter 143."

Sec. 7. G.S. 160A-71 is amended by adding a new sentence at the end of subsection (b) of that section to read as follows:

"In addition to the procedures set out in this subsection or any city charter, a person or persons calling a special meeting of a city council shall comply with the notice requirements of Article 33B of General Statutes Chapter 143."

Sec. 8. Chapter 959 of the 1977 Session Laws is amended in Section 2(2) by inserting after the comma following "1978" and before the word "its" the words "and to the 1979 General Assembly,".

Sec. 9. Sections 1, 2, 3, 4, 5, 6, and 7 of this act shall become effective on October 1, 1978. Sections 8 and 9 are effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1547

CHAPTER 1192

AN ACT TO CLARIFY PROCEDURES FOR APPOINTMENT OF NURSING HOME COMMUNITY ADVISORY COMMITTEES, SO AS TO IMPLEMENT THE RECOMMENDATIONS OF THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON AGING.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 897, Session Laws of 1977, is rewritten to read:

“Sec. 2. General Statutes Chapter 130 is amended by adding a new section to read:

“§ 130-9.5. *Nursing home advisory committees.*—(a) Statement of purpose. It is the purpose of the General Assembly that community advisory committees work to maintain the spirit of the nursing home bill of rights (Chapter 130, Article 30) within the nursing homes in this State. It is the further purpose of the General Assembly that the committees promote community involvement and cooperation with nursing homes and an integration of these homes into a system of care for the elderly.

(b) Establishment and appointment of committees. A community advisory committee shall be established in each county which has a nursing home, shall serve all the homes in the county, and shall work with each home for the best interests of the persons residing in each home. In a county which has one, two, or three nursing homes, the committee shall have five members. In a county with four or more nursing homes, the committee shall have one additional member for each nursing home in excess of three.

In each county with four or more nursing homes, the committee shall establish a subcommittee of five members from the committee for each nursing home in the county. Each member must serve on at least one subcommittee.

Each committee shall be appointed by the board of county commissioners. Of the members, a minority (not less than one-third, but as close to one-third as possible) must be chosen from among persons nominated by a majority of the chief administrators of nursing homes in the county. If the nursing home administrators fail to make a nomination within 45 days after written notification has been sent to them by the board of county commissioners requesting a nomination, such appointments may be made by the board of county commissioners without nominations.

(c) Terms of office. Each committee member shall serve an initial term of one year. Any person reappointed to a second or subsequent term in the same county shall serve a three-year term. Persons who were originally nominees of nursing home chief administrators, or who were appointed by the board of county commissioners when the nursing home administrators failed to make nominations may not be reappointed without the consent of a majority of the nursing home chief administrators within the county. If the nursing home chief administrators fail to approve or reject the reappointment within 45 days of being requested by the board of county commissioners, the commissioners may reappoint the member if they so choose.

(d) Vacancies. Any vacancy shall be filled by appointment of a person for a one-year term. Any person replacing a member nominated by the chief administrators or a person appointed when the chief administrators failed to make a nomination shall be selected from among persons nominated by the administrators, as provided in subsection (b). If the county commissioners fail to appoint members to a committee, or fail to fill a vacancy, the appointment may be made or vacancy filled by the Secretary of Human Resources or the Secretary's designee no sooner than 45 days after the commissioners have been notified of the appointment or vacancy if nomination or approval of the nursing home administrators is not required. If nominations or approval of the nursing home administrators is required, the appointment may be made or vacancy filled by the Secretary of Human Resources or the Secretary's designee no sooner than 45 days after the commissioners have received the nomination or

CHAPTER 1192 Session Laws—1977

approval, or no sooner than 45 days after the nursing home administrators' 45-day period for action has expired.

(e) Officers. The committee shall elect from its members a chairman, to serve a one-year term.

(f) Qualifications. Each member must be a resident of the county which the committee serves. No person or immediate family member of a person with a financial interest in a home served by a committee, or employee or governing board member or immediate family member of an employee or governing board member of a home served by a committee, or immediate family member of a patient in a home served by a committee may be a member of a committee.

Membership on a committee shall not be considered an office as defined in G.S. 128-1 or G.S. 128-1.1. Any county commissioner who is appointed to the committee shall be deemed to be serving on the committee in an ex-officio capacity. Members of the committee shall serve without compensation, but may be reimbursed for the amount of actual expenses incurred by them in the performance of their duties. The names of the committee members and the date of expiration of their terms shall be filed with the Division of Aging, which shall supply a copy to the Division of Facilities Services.

(g) The Division of Aging, Department of Human Resources, shall develop training materials, which shall be distributed to each committee member and nursing home. Each committee member must receive training as specified by the Division of Aging prior to exercising any power under subsection (h) of this section. The Division of Aging, Department of Human Resources, shall provide the committees with information, guidelines, training, and consultation to direct them in the performance of their duties.

(h) Duties.

- (1) Each committee shall apprise itself of the general conditions under which the persons are residing in the homes, and shall work for the best interests of the persons in the homes. This may include assisting persons who have grievances with the home and facilitating the resolution of grievances at the local level.
- (2) Each committee shall quarterly visit the nursing home it serves. For each such official quarterly visit, a majority of the committee members shall be present. In addition, each committee may visit the nursing home it serves whenever it deems it necessary to carry out its duties. In counties with four or more nursing homes, the subcommittee assigned to a home shall perform the duties of the committee under this subdivision, and a majority of the subcommittee members must be present for any visit.
- (3) Each member of a committee shall have the right, between 10:00 a.m. and 8:00 p.m., to enter into the facility the committee serves in order to carry out the members' responsibilities. In a county where subcommittees have been established, a member shall have a right to enter only homes served by subcommittees of which he is a member.
- (4) The committee or subcommittee may, at any time it deems necessary, communicate through its chairman with the Department of Human Resources or any other agency in relation to the interest of any patient. The names of all complaining persons shall remain confidential unless written permission is given for disclosure.

(5) Each home shall cooperate with the committee as it carries out its duties.

(6) Before entering into any nursing home, the committee, subcommittee, or member shall identify itself to the person present at the facility who is in charge of the facility at that time.

(i) Nursing homes to cooperate. In order for a nursing home as defined by G.S. 130-9(e) to be licensed under that subsection, the home shall cooperate with a community advisory committee."

Sec. 2. Section 4 of Chapter 897, Session Laws of 1977, is rewritten to read:

"The provisions of this act shall become effective January 1, 1978, except that G.S. 130-9.5(a) through G.S. 130-9.5(g), as proposed by Section 2, shall take effect July 1, 1978, and G.S. 130-9.5(h) and (i), as proposed by Section 2, shall take effect March 1, 1979.

Community advisory committees shall be appointed no later than January 1, 1979, in counties which have nursing homes prior to that date, and the initial terms of office of those committee members shall expire February 29, 1980."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1633

CHAPTER 1193

AN ACT TO REENACT AND REVISE THE LAWS RELATING TO INDIAN TRIBES INADVERTENTLY REPEALED BY THE 1977 SESSION OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 71 of the General Statutes shall be written to read as follows:

"§ 71-1. *Cherokee Indians of Robeson County; rights and privileges.*—The persons residing in Robeson, Richmond, and Sampson counties, who have heretofore been known as 'Croatan Indians' or 'Indians of Robeson County', together with their descendants, shall hereafter be known and designated as 'Cherokee Indians of Robeson County', and by that name shall be entitled to all the rights and privileges heretofore or hereafter conferred, by any law or laws of the State of North Carolina, upon the Indians heretofore known as the 'Croatan Indians' or 'Indians of Robeson County'. In all laws enacted by the General Assembly of North Carolina relating to said Indians subsequent to the enactment of said Chapter 51 of the Laws of 1885, the words 'Croatan Indians' and 'Indians of Robeson County' are stricken out and the words 'Cherokee Indians of Robeson County' inserted in lieu thereof.

"§ 71-2. *Chapter not applicable to certain bands of Cherokees.*—Neither this Chapter nor any other act relating to said 'Cherokee Indians of Robeson County' shall be construed so as to impose on said Indians any powers, privileges, rights, or immunities, or any limitations on their power to contract, heretofore enacted with reference to the Eastern Band of Cherokee Indians residing in Cherokee, Graham, Jackson, Swain and other adjoining counties in North Carolina, or any other band or tribe of Cherokee Indians other than those now residing, or who have since the Revolutionary War resided, in Robeson County, nor shall said 'Cherokee Indians of Robeson County', as

CHAPTER 1193 Session Laws—1977

herein designated, be subject to the limitations provided in the Chapter Contracts Requiring Writing, G.S. 22-3, entitled Contracts with Cherokee Indians.

“§ 71-3. *Lumbee Tribe of North Carolina; rights, privileges, immunities, obligations and duties.*—The Indians now residing in Robeson and adjoining counties of North Carolina, originally found by the first white settlers on the Lumbee River in Robeson County, and claiming joint descent from remnants of early American Colonists and certain tribes of Indians originally inhabiting the coastal regions of North Carolina, shall, from and after April 20, 1953, be designated and officially recognized as Lumbee Tribe of North Carolina and shall continue to enjoy all rights, privileges and immunities enjoyed by them as citizens of the State as now provided by law, and shall continue to be subject to all the obligations and duties of citizens under the law.

“§ 71-4. *Waccamaw Siouan Tribe of North Carolina; rights, privileges, immunities, obligations and duties.*—The Indians now living in Bladen and Columbus and adjoining counties of North Carolina, originally found by the first white settlers in the region of the Cape Fear River, Lake Waccamaw, and the Waccamaw Indians, a Siouan Tribe which inhabited the areas surrounding the Waccamaw, Pee Dee, and Lumber Rivers in North and South Carolina, shall, from and after July 20, 1971, be designated and officially recognized as the Waccamaw Siouan Tribe of North Carolina and shall continue to enjoy all their rights, privileges and immunities as citizens of the State as now or hereafter provided by law, and shall continue to be subject to all the obligations and duties of citizens under the law.

“§ 71-5. *Haliwa Tribe of North Carolina; rights, privileges, immunities, obligations and duties.*—The Indians now residing in Halifax, Warren and adjoining counties of North Carolina, originally found by the first permanent white settlers on the Roanoke River in Halifax and Warren Counties, and claiming descent from certain tribes of Indians originally inhabiting the coastal regions of North Carolina, shall, from and after April 15, 1965, be designated and officially recognized as the Haliwa Tribe of North Carolina, and they shall continue to enjoy all their rights, privileges and immunities as citizens of the State as now or hereafter provided by law, and shall continue to be subject to all the obligations and duties of citizens under the law.

“§ 71-6. *Coharie Tribe of North Carolina; rights, privileges, immunities, obligations and duties.*—The Indians now living in Harnett and Sampson and adjoining counties of North Carolina, originally found by the first white settlers on the Coharie River in Sampson County, and claiming descent from certain tribes of Indians originally inhabiting the coastal regions of North Carolina, shall, from and after July 20, 1971, be designated and officially recognized as the Coharie Tribe of North Carolina and shall continue to enjoy all their rights, privileges and immunities as citizens of the State as now or hereafter provided by law, and shall continue to be subject to all the obligations and duties of citizens under the law.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1553

CHAPTER 1194

AN ACT TO PROVIDE LIMITATIONS ON ASSISTANTS TO PHYSICIANS AND ON NURSE PRACTITIONERS, SO AS TO IMPLEMENT THE RECOMMENDATIONS OF THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON PHYSICIANS' ASSISTANTS AND NURSE PRACTITIONERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-18.1 is rewritten to read:

“§ 90-18.1. *Limitations on Physician Assistants.*—(a) Any person who is approved under the provisions of G.S. 90-18 (13) to perform medical acts, tasks or functions as an assistant to a physician may use the title ‘Physician Assistant’. Any other person who uses the title in any form or holds out to be a Physician Assistant or to be so approved, shall be deemed to be in violation of this Article.

(b) Physician Assistants are authorized to write prescriptions for drugs under the following conditions:

- (1) the Board of Medical Examiners has adopted regulations governing the approval of individual Physician Assistants to write prescriptions with such limitations as the board may determine to be in the best interest of patient health and safety;
- (2) the Physician Assistant has current approval from the board;
- (3) the Board of Medical Examiners has assigned an identification number to the Physician Assistant which is shown on the written prescription; and
- (4) the supervising physician has provided to the Physician Assistant written instructions about indications and contraindications for prescribing drugs and a written policy for periodic review by the physician of the drugs prescribed.

(c) Physician Assistants are authorized to compound and dispense drugs under the following conditions:

- (1) the function is performed under the supervision of a licensed pharmacist; and
- (2) rules and regulations of the North Carolina Board of Pharmacy governing this function are complied with.

(d) Physician Assistants are authorized to order medications, tests and treatments in hospitals, clinics, nursing homes and other health facilities under the following conditions:

- (1) the Board of Medical Examiners has adopted regulations governing the approval of individual Physician Assistants to order medications, tests and treatments with such limitations as the board may determine to be in the best interest of patient health and safety;
- (2) the Physician Assistant has current approval from the board;
- (3) the supervising physician has provided to the Physician Assistant written instructions about ordering medications, tests and treatments, and when appropriate, specific oral or written instructions for an individual patient, with provision for review by the physician of the order within a reasonable time, as determined by the Board, after the medication, test or treatment is ordered; and

CHAPTER 1194 Session Laws—1977

- (4) the hospital or other health facility has adopted a written policy, approved by the medical staff after consultation with the nursing administration, about ordering medications, tests and treatments, including procedures for verification of the Physician Assistants' orders by nurses and other facility employees and such other procedures as are in the interest of patient health and safety.

(e) Any prescription written by a Physician Assistant or order given by a Physician Assistant for medications, tests or treatments shall be deemed to have been authorized by the physician approved by the board as the supervisor of the Physician Assistant and such supervising physician shall be responsible for authorizing such prescription or order.

(f) Any registered nurse or licensed practical nurse who receives an order from a Physician Assistant for medications, tests or treatments is authorized to perform that order in the same manner as if it were received from a licensed physician."

Sec. 2. The General Statutes are amended by adding a new Section G.S. 90-18.2 to read:

"§ 90-18.2. *Limitations on Nurse Practitioners.*—(a) Any nurse approved under the provisions of G.S. 90-18(14) to perform medical acts, tasks or functions may use the title 'Nurse Practitioner'. Any other person who uses the title in any form or holds out to be a Nurse Practitioner or to be so approved, shall be deemed to be in violation of this Article.

(b) Nurse Practitioners are authorized to write prescriptions for drugs under the following conditions:

- (1) the Board of Medical Examiners and Board of Nursing have adopted regulations developed by a joint subcommittee governing the approval of individual Nurse Practitioners to write prescriptions with such limitations as the boards may determine to be in the best interest of patient health and safety;
- (2) the Nurse Practitioner has current approval from the boards;
- (3) the Board of Medical Examiners has assigned an identification number to the Nurse Practitioner which is shown on the written prescription; and
- (4) the supervising physician has provided to the Nurse Practitioner written instructions about indications and contraindications for prescribing drugs and a written policy for periodic review by the physician of the drugs prescribed.

(c) Nurse Practitioners are authorized to compound and dispense drugs under the following conditions:

- (1) the function is performed under the supervision of a licensed pharmacist; and
- (2) rules and regulations of the North Carolina Board of Pharmacy governing this function are complied with.

(d) Nurse Practitioners are authorized to order medications, tests and treatments in hospitals, clinics, nursing homes and other health facilities under the following conditions:

- (1) the Board of Medical Examiners and Board of Nursing have adopted regulations developed by a joint subcommittee governing the approval of individual Nurse Practitioners to order medications, tests and

treatments with such limitations as the boards may determine to be in the best interest of patient health and safety;

- (2) the Nurse Practitioner has current approval from the boards;
- (3) the supervising physician has provided to the Nurse Practitioner written instructions about ordering medications, tests and treatments, and when appropriate, specific oral or written instructions for an individual patient, with provision for review by the physician of the order within a reasonable time, as determined by the board, after the medication, test or treatment is ordered; and
- (4) the hospital or other health facility has adopted a written policy, approved by the medical staff after consultation with the nursing administration, about ordering medications, tests and treatments, including procedures for verification of the Nurse Practitioners' orders by nurses and other facility employees and such other procedures as are in the interest of patient health and safety.

(e) Any prescription written by a Nurse Practitioner or order given by a Nurse Practitioner for medications, tests or treatments shall be deemed to have been authorized by the physician approved by the boards as the supervisor of the Nurse Practitioner and such supervising physician shall be responsible for authorizing such prescription or order.

(f) Any registered nurse or licensed practical nurse who receives an order from a Nurse Practitioner for medications, tests or treatments is authorized to perform that order in the same manner as if it were received from a licensed physician."

Sec. 3. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1686

CHAPTER 1195

AN ACT TO EXEMPT FROM G.S. 159-40 CERTAIN PROVIDER PRIVATE, NON-PROFIT CORPORATIONS WHICH ARE LICENSED OR CERTIFIED BY THE STATE OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-40, as the same appears in the 1977 Cumulative Supplement to Volume 3D, is hereby amended by adding a new subsection thereto to read as follows:

"(e) The provisions of this section shall not apply to private, non-profit corporations which are licensed or certified by the State of North Carolina and are fiscally accountable to agencies of the State of North Carolina or to agencies of local governmental units with which they have contracted for the provision of services."

Sec. 2. This act is effective upon ratification and shall have retroactive application to July 1, 1977.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1687

CHAPTER 1196

AN ACT TO ALLOW THE CITY OF WILSON TO ENTER CONTRACTS FOR THE REDEVELOPMENT OF LAND IN ADVANCE OF ITS ACQUISITION, TO DISPOSE OF PROPERTY AT PRIVATE SALE AND TO ENGAGE IN JOINT ACTIVITY FOR THE PURPOSE OF OBTAINING URBAN DEVELOPMENT ACTION GRANTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-457 is amended by deleting the word “and” at the end of subsection (2).

Sec. 2. G.S. 160A-457 is amended by adding a new subsection to read:

“(4) To enter into contracts or agreements with any person, association or corporation to undertake and carry out specified activities in furtherance of the purposes of urban development action grants authorized by the Housing and Community Development Act of 1977 (P.L. 95-128). Such contracts may be negotiated and entered into prior to the actual acquisition or redevelopment of any real property obtained for the purposes authorized by this Part, and such contracts shall be binding legal commitments for accomplishing the purposes set forth therein; and”.

Sec. 3. G.S. 160A-457 is amended by adding the following new subsection:

“(5) In addition to the powers granted in subsection (3), to convey at private sale to any person, firm, corporation, or governmental unit, particular properties within a redevelopment area where it finds the proposed redeveloper is the only known available, qualified and willing redeveloper for the contemplated use, and makes one or more of the following findings:

- (a) that the proposed use or redevelopment is necessary in order to facilitate the relocation of persons or firms displaced by an urban development action grant project or other governmental action;
- (b) that the proposed use or redevelopment is reasonably necessary in order to assure development which will have the desired beneficial effect upon neighboring property, the project area, and the community as a whole, as contemplated by the redevelopment plan;
- (c) that the proposed use or redevelopment will assure that the property will not remain unused for an unduly long period and will result in a return to the local ad valorem tax rolls at a substantially earlier date than uses or redevelopments obtainable by other methods of disposition.

These findings shall be verified and approved by the governing body of the municipality after a public hearing, notice of which shall be given once a week for two successive calendar weeks in a newspaper published in the municipality and by posting such notice at four public places in the municipality, said notice to be published the first time, or posted, not less than 15 days prior to the date fixed for said hearing.

Conveyances provided for by this subsection shall only be made in connection with urban development action grants. These conveyances shall be for such consideration as may be agreed upon by the city and redeveloper and approved by the governing body of the municipality, which shall not be less than the fair, actual value of the property as determined by the governing body of the municipality, based on competent evidence. All conveyances made under

the authority of this subsection shall contain restrictive covenants limiting the use of property so conveyed to the designated purpose for which the conveyance is made.”

Sec. 4. If any provision of this act is declared by any court of competent jurisdiction to be invalid or unconstitutional, such declaration shall not affect the validity of the remainder of the act.

Sec. 5. This act shall apply only to the City of Wilson.

Sec. 6. This act shall become null and void if the City of Wilson does not obtain an Urban Development Action Grant by July 1, 1982.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1652

CHAPTER 1197

AN ACT AMENDING CHAPTER 159C OF THE GENERAL STATUTES OF NORTH CAROLINA, AS ENACTED BY CHAPTER 800 OF THE 1975 SESSION LAWS OF NORTH CAROLINA, AS AMENDED, WHICH AUTHORIZES COUNTIES TO CREATE AUTHORITIES TO FINANCE INDUSTRIAL AND POLLUTION CONTROL PROJECTS, TO PERMIT THE FINANCING OF FREIGHT TERMINALS, INDUSTRIAL RESEARCH, DEVELOPMENT AND LABORATORY FACILITIES, INDUSTRIAL PROCESSING FACILITIES AND INDUSTRIAL DISTRIBUTION FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. The first sentence of G.S. 159C-3(11) of Chapter 159C of the General Statutes of North Carolina, enacted as Chapter 159A by Chapter 800 of the 1975 Session Laws of North Carolina, as amended, is hereby amended to read as follows:

“(11) Project shall mean any land, equipment or any or more buildings or other structures, whether or not on the same site or sites, and any rehabilitation, improvement, renovation or enlargement of, or any addition to, any building or structure for use as or in connection with (i) any industrial project for industry which project may be any industrial or manufacturing factory, mill, assembly plant or fabricating plant, or freight terminal, or industrial research, development or laboratory facility, or industrial processing facility or distribution facility for industrial or manufactured products, or (ii) any pollution control project for industry or for public utilities which project may be any air pollution control facility, water pollution control facility, or solid waste disposal facility in connection with any factory, mill or plant described in clause (i) of this subdivision or in connection with a public utility plant, or (iii) any combination of projects mentioned in clauses (i) and (ii) of this subdivision.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1651

CHAPTER 1198

AN ACT AUTHORIZING THE CREATION OF THE NORTH CAROLINA INDUSTRIAL AND POLLUTION CONTROL FACILITIES FINANCING AUTHORITY AND THE ISSUANCE THEREBY OF REVENUE BONDS TO FINANCE INDUSTRIAL AND POLLUTION CONTROL PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes of North Carolina are hereby amended by inserting therein a new Chapter to be designated Chapter 159D and to read as follows:

“CHAPTER 159D.

“The North Carolina Industrial and Pollution
Control Facilities Financing Authority Act.

“§159D-1. *Short title.*—This Chapter may be referred to as ‘The North Carolina Industrial and Pollution Control Facilities Federal Program Financing Act.’

“§159D-2. *Legislative findings and purposes.*—(a) The General Assembly finds and determines that there exists in the State a critical condition of unemployment and a scarcity of employment opportunities; that the economic insecurity which results from such unemployment and scarcity of employment opportunities constitutes a serious menace to the safety, morals and general welfare of the entire State; that such unemployment and scarcity of employment opportunities have caused many workers and their families, including young adults upon whom future economic prosperity is dependent, to migrate elsewhere to find employment and establish homes; that such emigration has resulted in a reduced rate of growth in the tax base of the counties and other local governmental units of the State which impairs the financial ability of such counties and other local governmental units to support education and other local governmental services; that such unemployment results in obligations to grant public assistance and to pay unemployment compensation; that the aforesaid conditions can best be remedied by the attraction, stimulation, expansion and rehabilitation and revitalization of industrial and manufacturing facilities for industry in the State; and that there is a need to stimulate a larger flow of private investment funds into industrial building programs into the State.

(b) The General Assembly further finds and determines that the development and expansion of industry within the State, which are essential to the economic growth of the State, and to the full employment and prosperity of its people, are accompanied by the increased production and discharge of gaseous, liquid, and solid pollution and wastes which threaten and endanger the health, welfare and safety of the inhabitants of the State by polluting the air, land and waters of the State; that in order to reduce, control, and prevent such environmental pollution, it is imperative that action be taken at various levels of government to require the provision of devices, equipment and facilities for the collection, reduction, treatment, and disposal of such pollution and wastes; that the assistance provided in this Chapter, especially with respect to financing, is therefore in the public interest and serves a public purpose of the State in promoting the health, welfare and safety of the inhabitants of the State not only physically by collecting, reducing, treating and preventing environmental pollution but also economically by securing and retaining

private industry thereby maintaining a higher level of employment and economic activity and stability.

(c) The General Assembly further finds that the federal government and its agencies have established, and may in the future establish, programs to promote gainful employment opportunity and the prevention and control of the pollution of air, land and waters of the United States through assistance in the financing of industrial and manufacturing facilities and pollution control facilities for industry and that the economical implementation of such programs in the State of North Carolina may require the financing of such facilities through a uniform statewide program.

(d) It is therefore declared to be the policy of the State to promote the right to gainful employment opportunity, private industry, the prevention and control of the pollution of the air, land and waters of the State, and the safety, morals and health of the people of the State, and thereby promote general welfare of the people of the State, by authorizing counties to create an authority which shall be a political subdivision and body corporate and politic of the State. This body is to be formed (i) to aid in the financing of industrial and manufacturing facilities for the purpose of alleviating unemployment or raising below average manufacturing wages by financing industrial and manufacturing facilities which provide job opportunities or pay better wages than those prevalent in the area and (ii) to aid in financing pollution control facilities for industry in connection with manufacturing and industrial facilities, in each case in connection with federal programs to effect such purposes; provided, however, that it is the policy of the State to finance only those facilities where there is a direct or indirect favorable impact on employment or an improvement in the degree of prevention or control of pollution commensurate with the size and cost of the facilities.

“§ 159D-3. *Definitions.*—The following terms, whenever used or referred to in this Chapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:

- (1) ‘Agency’ shall include any agency, bureau, commission, department or instrumentality.
- (2) ‘Air pollution control facility’ shall mean any structure, equipment or other facility for, including any increment in the cost of any structure, equipment or facility attributable to, the purpose of treating, neutralizing or reducing gaseous industrial waste and other air pollutants, including recovery, treatment, neutralizing or stabilizing plants and equipment and their appurtenances, which shall have been certified by the agency having jurisdiction to be in furtherance of the purpose of abating or controlling atmospheric pollutants or contaminants.
- (3) ‘Authority’ shall mean The North Carolina Industrial and Pollution Control Facilities Financing Authority, a political subdivision and body politic of the State, which may be created pursuant to the provisions of this Chapter and which shall have the powers and authority specified in and by this Chapter.
- (4) ‘Bonds’ shall mean revenue bonds of an authority issued under the provisions of this Chapter.
- (5) ‘Cost’ as applied to any project shall embrace all capital costs thereof, including the cost of construction, the cost of acquisition of all property,

CHAPTER 1198 Session Laws—1977

including rights in land and other property, both real and personal and improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all machinery and equipment, installation, start-up expenses, financing charges, interest prior to, during and for a period not exceeding one year after completion of construction, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants' and legal services, other expenses necessary or incident to determining the feasibility or practicability of such project, administrative and other expenses necessary or incident to the acquisition or construction of such project and the financing of the acquisition and construction thereof, including a reserve for debt services.

- (6) 'Federal program' shall mean a program of the federal government, or any agency thereof, under which payment of bonds or the obligations of an obligor under a financing agreement shall be guaranteed, in whole or in part, by a pledge of the full faith and credit of the United States of America.
- (7) 'Financing agreement' shall mean a written instrument establishing the rights and responsibilities of the authority and the operator with respect to a project financed by the issue of bonds.
- (8) 'Governing body' shall mean the board, commission, council or other body in which the general legislative powers of any county or other political subdivision are vested.
- (9) 'Obligor' shall mean collectively the operator and any others (including, but not by way of limitation, the federal government or any agency thereof) who shall be obligated under a financing agreement or guaranty agreement or other contract or agreement to make payments to, or for the benefit of, the holders of bonds of the authority. Any requirement of an obligor may be satisfied by any one or more persons who are defined collectively by this Chapter as the obligor.
- (10) 'Operator' shall mean the person entitled to the use or occupancy of a project.
- (11) 'Political subdivision' shall mean any county, city, town, other unit of local government or any other governmental corporation, agency, authority or instrumentality of the State now or hereafter existing.
- (12) 'Pollution and pollutants' shall mean any noxious or deleterious substances in any air or waters of or adjacent to the State of North Carolina or affecting the physical, chemical or biological properties of any air or waters of or adjacent to the State of North Carolina in a manner and to an extent which renders or is likely to render such air or waters harmful or inimical to the public health, safety or welfare, or to animal, bird or aquatic life, or to the use of such air or waters for domestic, industrial or agricultural purposes or recreation.
- (13) 'Project' shall mean any land, equipment or any one or more buildings or other structures, whether or not on the same site or sites, and any rehabilitation, improvement, renovation or enlargement of, or any addition to, any building or structure for use as or in connection with (i) any industrial project for industry which project may be any industrial or manufacturing factory, mill, assembly plant or fabricating plant, or freight terminal, or industrial research, development or laboratory

facility or industrial processing facility for industrial or manufactured products, or (ii) any pollution control project for industry which project may be any air pollution control facility, water pollution control facility, or solid waste disposal facility in connection with any factory, mill, plant, terminal or facility described in clause (i) of this subdivision, or (iii) any combination of projects mentioned in clauses (i) and (ii) of this subdivision. Any project may include all appurtenances and incidental facilities such as land, headquarters or office facilities, warehouses, distribution centers, access roads, sidewalks, utilities, railway sidings, trucking and similar facilities, parking facilities, landing strips and other facilities for aircraft, waterways, docks, wharves and other improvements necessary or convenient for the construction, maintenance and operation of any building or structure, or addition thereto.

- (14) 'Revenues' shall mean, with respect to any project, the rents, fees, charges, payments, proceeds and other income or profit derived therefrom or from the financing agreement or security document in connection therewith.
- (15) 'Security document' shall mean a written instrument or instruments establishing the rights and responsibilities of the authority and the holders of bonds issued to finance a project, and may provide for, or be in the form of an agreement with, a trustee for the benefit of such bondholders. A security document may contain an assignment, pledge, mortgage or other encumbrance of all or part of the authority's interest in, or right to receive revenues with respect to, a project and any other property provided by the operator or other obligor under a financing agreement and may bear any appropriate title. A financing agreement and a security document may be combined as one instrument.
- (16) 'Solid waste' shall mean solid waste materials resulting from any industrial or manufacturing activities or from any pollution control facility.
- (17) 'Solid waste disposal facility' shall mean a facility for the purpose of treating, burning, compacting, composting, storing or disposing of solid waste.
- (18) 'Water pollution control facility' shall mean any structure, equipment or other facility for, including any increment in the cost of any structure, equipment or facility attributable to, the purpose of treating, neutralizing or reducing liquid industrial waste and other water pollution, including collecting, treating, neutralizing, stabilizing, cooling, segregating, holding, recycling, or disposing of liquid industrial waste and other water pollution, including necessary collector, interceptor, and outfall lines and pumping stations, which shall have been certified by the agency exercising jurisdiction to be in furtherance of the purpose of abating or controlling water pollution.

"§ 159D-4. *Creation of the authority.*—(a) The governing bodies of two or more counties are hereby authorized to create by resolution a political subdivision and body corporate and politic of the State known as 'The North Carolina Industrial Facilities and Pollution Control Financing Authority', in order to effectuate in the most economical manner the acquisition, construction and financing of projects through federal programs.

CHAPTER 1198 Session Laws—1977

If each governing body shall determine that it is in the best interests of the county to cause to be created and to become a member of the authority, each governing body shall adopt a resolution so finding and setting forth the names of the counties which are proposed to be initial members of the authority. The governing body of the county shall thereupon by ordinance or resolution appoint one commissioner of the authority.

Any two or more commissioners so named may file with the Secretary of State an application signed by them setting forth (i) the names of all the proposed member counties; (ii) the name and official residence of each of the commissioners so far as known to them; (iii) a certified copy of the appointment evidencing their right to office; (iv) a statement that each governing body of each respective county appointing a commissioner has made the aforesaid determination; and (v) the desire that an authority be organized as a political subdivision and a body corporate and politic under this Chapter.

The application shall be subscribed and sworn to by such commissioners before an officer or officers authorized by the laws of the State to administer and certify oaths.

The Secretary of State shall examine the application and, if he finds that the name proposed for the authority is not identical with that of any other corporation of this State or of any agency or instrumentality thereof, or so nearly similar as to lead to confusion and uncertainty, he shall receive and file it and shall record it in an appropriate book of record in his office.

When the application has been made, filed and recorded as herein provided, the authority shall constitute a political subdivision and a body corporate and politic under the name proposed in the application. The Secretary of State shall make and issue to the commissioners executing the application a certificate of incorporation pursuant to this Chapter under the seal of the State, and shall record the same with the application. The certificate shall set forth the names of the member counties.

In any suit, action or proceeding involving the validity or enforcement of, or relating to, any contract of the authority, the authority, in the absence of establishing fraud in the premises, shall be conclusively deemed to have been established in accordance with the provisions of this Chapter upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be admissible in evidence in any such suit, action or proceeding, and shall be conclusive proof of the filing and contents thereof.

Notice of the issuance of such certificate shall be given to all of the proposed member counties by the Secretary of State. If a commissioner of any such county has not signed the application to the Secretary of State and such county does not notify the Secretary of State of the appointment of a commissioner within 40 days after receipt of such notice, such county shall be deemed to have elected not to be a member of the authority. As soon as practicable after the expiration of such 40-day period, the Secretary of State shall issue a new certificate of incorporation, if necessary, setting forth the names of those counties which have elected to become members of the authority. The failure of any proposed member to become a member shall not affect the validity of the corporate existence of the authority.

(b) After the creation of the authority, any county may become a member thereof upon application to the authority after adoption of a resolution or

ordinance by the governing body of the county setting forth the determination and finding prescribed in paragraph (a) of this G.S. 159D-4, and authorizing said county to participate. Any county may withdraw from membership in the authority, provided, however, that all contractual rights acquired and obligations incurred while a county was a member shall remain in full force and effect.

(c) The authority shall consist of a board of commissioners appointed by the respective governing bodies of the counties which are members of the authority. Each commissioner shall have one vote. Each commissioner shall serve at the pleasure of the governing body by which he was appointed. Each appointed commissioner before entering upon his duties shall take and subscribe to an oath before some person authorized by law to administer oaths to execute the duties of his office faithfully and impartially, and a record of such oath shall be filed with the governing body of the appointing municipality and spread upon its minutes.

(d) The board of commissioners of the authority shall annually elect from its membership a chairman and a vice-chairman and another person or persons, who may but need not be commissioners, as treasurer, secretary and, if desired, assistant secretary. The position of secretary and treasurer or assistant secretary and treasurer may be held by the same person. The secretary of the authority shall keep a record of the proceedings of the authority and shall be the custodian of all books, documents and papers filed with the authority, the minute book or journal of the authority and its official seal. Either the secretary or the assistant secretary of the authority may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates.

(e) A majority of the commissioners of the authority then in office shall constitute a quorum. Except as provided in paragraph (f) of this G.S. 159-4, the affirmative vote of a majority of all the commissioners of the authority shall be necessary for any action of the board. A vacancy in the board of commissioners of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under the provisions of this Chapter may be authorized by resolution at any regular or special meeting, and each resolution shall take effect immediately and need not be published or posted. No bonds shall be issued under the provisions of this Chapter unless the issuance thereof shall have been approved by the governing body of the county in which the project with respect to which the bonds were issued is located.

(f) If at any time there shall be more than seven counties which are members of the authority, the board of commissioners of the authority may create an executive committee of the board of commissioners. The board may provide for the composition of the executive committee so as to afford, in its judgment, fair representation of the member counties. Any power of the authority under the provisions of this Chapter may be exercised by the executive committee of the authority between meetings of the authority, except that the executive committee may not overrule, reverse or disregard any action of the board of commissioners of the authority. The membership of the executive committee,

CHAPTER 1198 Session Laws—1977

terms of office of members thereof and the method of filling vacancies therein shall be fixed by the rules or bylaws of the board of commissioners.

(g) No commissioner of an authority shall receive any compensation for the performance of his duties under this Chapter; provided, however, that each commissioner shall be reimbursed for his necessary expenses incurred while engaged in the performance of duties but only from moneys provided by obligors.

(h) Within 30 days of the date of creation of the authority, the authority shall advise the Department of Commerce and the Local Government Commission that an authority has been formed. The authority shall also furnish such Department and such Commission with (i) a list of its commissioners and its officers and (ii) a description of any projects that are under consideration by the authority. The authority shall, from time to time, notify the Department of Commerce and the Local Government Commission of changes in commissioners and officers, of counties which have become members of the authority and of new projects under consideration by the authority.

“§ 159D-5. *General powers.*—The authority shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Chapter, including, but without limiting the generality of the foregoing, the powers:

- (1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;
- (2) To adopt an official seal and alter the same at pleasure;
- (3) To maintain an office at such place or places as it may determine;
- (4) To sue and be sued in its own name, plead and be impleaded;
- (5) To receive, administer and comply with the conditions and requirements respecting any gift, grant or donation of any property or money;
- (6) To make and execute financing agreements, security documents and other contracts and instruments necessary or convenient in the exercise of the powers and functions of the authority under this Chapter;
- (7) To acquire by purchase, lease, gift or otherwise, but not by eminent domain, or to obtain options for the acquisition of any property, real or personal, improved or unimproved, and interests in land less than the fee thereof, for the construction, operation or maintenance of any project;
- (8) To sell, lease, exchange, transfer or otherwise dispose of, or to grant options for any such purposes with respect to, any real or personal property or interest therein;
- (9) To pledge or assign revenues of the authority;
- (10) To construct, acquire, own, repair, maintain, extend, improve, rehabilitate, renovate, furnish and equip one or more projects and to pay all or any part of the costs thereof from the proceeds of bonds of the authority or from any contribution, gift or donation or other funds made available to the authority for such purpose;
- (11) To fix, charge and collect revenues with respect to any project;
- (12) To employ consulting engineers, architects, attorneys, real estate counselors, appraisers and such other consultants and employees as may

be required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor; and

- (13) To do all acts and things necessary, convenient or desirable to carry out the purposes, and to exercise the powers herein granted.

“§ 159D-6. *Bonds*.—The authority is hereby authorized to provide for the issuance, at one time or from time to time, of bonds of the authority for the purpose of paying all or any part of the cost of any project. The principal of, the interest on and any premium payable under the redemption of such bonds shall be payable solely from the funds herein authorized for such payment. The bonds of each issue shall bear interest as may be determined by the Local Government Commission of North Carolina with the approval of the authority and the obligor irrespective of the limitations of G.S. 24-1.1, as amended, and successor provisions. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 30 years from the date of their issuance, and may be made redeemable before maturity at such price or prices and under such terms and conditions, as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The authority may also provide for the authentication of the bonds by a trustee or fiscal agent. The bonds may be issued in coupon or in fully registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds.

The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project or projects, or a portion thereof, for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the financing agreement and the security document. If the proceeds of the bonds of any issue, by reason of increased construction costs or error in estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficiency. The authority may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

Bonds may be issued under the provisions of this Chapter without obtaining, except as otherwise expressly provided in this Chapter, the consent of the State or of any political subdivision or of any agency of either thereof, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions or things which are specifically required by this Chapter and the provisions of the financing agreement and security document authorizing the issuance of such bonds and securing the same.

“§ 159D-7. *Approval of project.*—No bonds may be issued by the authority unless the project for which the issuance thereof is proposed is first approved by the Secretary of the Department of Commerce. The authority shall file an application for approval of its proposed project with the Secretary of the Department of Commerce, and shall notify the Local Government Commission of such filing.

The Secretary shall not approve any proposed project unless he shall make all of the following, applicable findings:

- (1) In the case of a proposed industrial project,
 - a. That the operator of the proposed project pays, or has agreed to pay thereafter, an average weekly manufacturing wage (i) which is above the average weekly manufacturing wage paid in the county in which the project is to be located or (ii) which is not less than twenty percent (20%) above the average weekly manufacturing wage paid in the State; and
 - b. That the proposed project will not have a materially adverse effect on the environment;
- (2) In the case of a proposed pollution control project, that such project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise occur; and
- (3) In any case (whether the proposed project is an industrial or a pollution control project),
 - a. That the jobs to be generated or saved, directly or indirectly, by the proposed project will be large enough in number to have a measurable impact on the area immediately surrounding the proposed project and will be commensurate with the size and cost of the proposed project,
 - b. That the proposed operator of the proposed project has demonstrated or can demonstrate the capability to operate such project, and
 - c. That the financing of such project by the authority will not cause or result in the abandonment of an existing industrial or manufacturing facility of the proposed operator or an affiliate elsewhere within the State unless the facility is to be abandoned because of obsolescence, lack of available labor in the area, or site limitations.

In no case shall the Secretary of the Department of Commerce make the findings required by subdivisions 1(b) and (2) of this section unless he shall have first received a certification from the Department of Natural Resources and Community Development that, in the case of a proposed industrial project, the proposed project will not have a materially adverse effect on the environment and that, in the case of a proposed pollution control project, the proposed project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise occur. In any case where the Secretary shall make all of the required findings respecting a proposed industrial project, except that prescribed in subparagraph 1(a) of this section, the Secretary may, in his discretion, approve the proposed project if he shall have received (i) a resolution of the governing body of the county in which the proposed project is to be located requesting that the proposed project be approved notwithstanding that the operator will not pay an average weekly manufacturing wage above the average weekly manufacturing wage in the county and (ii) a letter from an appropriate State official, selected

by the Secretary, to the effect that unemployment in the county is especially severe.

To facilitate his review of each proposed project, the Secretary may require the authority to obtain and submit such data and information about such project as the Secretary may prescribe. In addition, the Secretary may, in his discretion, request the authority to hold a public hearing on the proposed project for the purpose of providing the Secretary directly with the views of the community to be affected. The Secretary may also prescribe such forms and such rules and regulations as he shall deem reasonably necessary to implement the provisions of this section.

If the Secretary approves the proposed project, he shall prepare a certificate of approval evidencing such approval and setting forth his findings and shall cause said certificate of approval to be published in a newspaper of general circulation within the county in which the proposed project is to be located. Any such approval shall be reviewable as provided in Article 4 of Chapter 150A of the General Statutes of North Carolina only by an action filed, within 30 days after notice of such findings and approval shall have been so published, in the Superior Court of Wake County. Such Superior Court is hereby vested with jurisdiction to hear such action, but if no such action is filed within the 30 days herein prescribed, the validity of such approval shall be conclusively presumed, and no court shall have authority to inquire into such approval. Copies of the certificate of approval of the proposed project will be given to the authority, the governing body of the county in which the proposed project is to be located and the Secretary of the Local Government Commission.

Such certificate of approval shall become effective immediately following the expiration of such 30-day period or the expiration of any appeal period after a final determination by any court of any action timely filed pursuant to this section. Such certificate shall expire one year after its date unless extended by the secretary who shall not extend such certificate unless he shall again approve the proposed project as provided in this section.

“§ 159D-8. *Approval of bonds.*—No bonds may be issued by the authority unless the issuance thereof is first approved by the Local Government Commission.

The authority shall file an application for approval of its proposed bond issue with the Secretary of the Local Government Commission, and shall notify the Secretary of the Department of Commerce of such filing.

In determining whether a proposed bond issue should be approved, the Local Government Commission may consider, without limitation, the following:

- (1) Whether the proposed operator and obligor have demonstrated or can demonstrate the financial responsibility and capability to fulfill their obligations with respect to the financing agreement. In making such determination, the commission may consider the operator's experience and the obligor's ratio of current assets to current liabilities, net worth, earnings trends and coverage of fixed charges, the nature of the industry or business involved and its stability and any additional security such as insurance, guaranties or property to be pledged or secure such bonds.
- (2) Whether the political subdivisions in or near which the proposed project is to be located have the ability to cope satisfactorily with the impact of such project and to provide, or cause to be provided, the public facilities and services, including utilities, that will be necessary for such

CHAPTER 1198 Session Laws—1977

project and on account of any increase in population which are expected to result therefrom.

- (3) Whether the proposed date and manner of sale will have an adverse effect upon any scheduled or anticipated sale of obligations by the State or any political subdivision or any agency of either of them.

To facilitate the review of the proposed bond issue by the commission, the secretary may require the authority to obtain and submit such financial data and information about the proposed bond issue and the security therefor, including the proposed prospectus or offering circular, the proposed financing agreement and security document and annual and other financial reports and statements of the obligor, as the secretary may prescribe. The secretary may also prescribe such forms and such rules and regulations as he shall deem reasonably necessary to implement the provisions of this section.

“§ 159D-9. *Sale of bonds.*—Bonds may be sold in such manner, either at public or private sale, and for such price as the Local Government Commission shall determine to be for the best interests of the authority and effectuate best the purposes of this Chapter irrespective of the interest limitations set forth in G.S. 24-1.1, as amended, and successor provisions provided that such sale shall be approved by the authority and the obligor.

“§ 159D-10. *Location of projects.*—Any project of the authority shall be located within the boundaries of a county which is a member of the authority.

“§ 159D-11. *Financing agreements.*—Every financing agreement shall provide that:

- (1) The authority shall not operate the project;
- (2) The amounts payable under the financing agreement shall be sufficient to pay all of the principal of and interest and redemption premium, if any, on the bonds that shall be issued by the authority to pay the cost of the project as the same shall respectively become due;
- (3) The obligor shall pay all costs incurred by the authority in connection with the financing and administration of the project, except as may be paid out of the proceeds of bonds or otherwise, including, but without limitation, insurance costs, the cost of administering the financing agreement and the security document and the fees and expenses of the fiscal agent or trustee, paying agents, attorneys, consultants and others;
- (4) The obligor shall pay all the costs and expenses of operation, maintenance and upkeep of the project; and
- (5) The obligor's obligation to provide for the payment of the bonds in full shall not be subject to cancellation, termination or abatement until such payment of the bonds or provision therefor shall be made.

The financing agreement may be in the nature of:

- (1) A sale and leaseback,
- (2) A lease purchase,
- (3) A conditional sale,
- (4) An installment sale,
- (5) A secured or unsecured loan,
- (6) A loan and mortgage, or
- (7) Other similar transaction.

The financing agreement shall either provide that the obligor shall have an option to purchase, or require that the obligor purchase, the project upon the expiration or termination of the financing agreement subject to the condition

that payment in full of the principal of, and the interest and any redemption premium on, the bonds, or provision therefor, shall have been made.

The financing agreement may provide the authority with rights and remedies in the event of a default by the obligor thereunder including, without limitation, any one or more of the following:

- (1) Acceleration of all amounts payable under the financing agreement;
- (2) Reentry and repossession of the project;
- (3) Termination of the financing agreement;
- (4) Leasing or sale of the project to others; and
- (5) Taking whatever actions at law or in equity may appear necessary or desirable to collect the amounts payable under, and to enforce covenants made in, the financing agreement.

The authority may assign all or any of its rights and remedies under the financing agreement to the trustee or bondholders under the security document.

Any such financing agreement may contain such additional provisions as in the determination of the authority are necessary or convenient to effectuate the purposes of this Chapter.

“§ 159D-12. *Security documents.*—Bonds issued under the provisions of this Chapter may be secured by a security document which may be a trust instrument between the authority and a bank or trust company or individual within the State, or a bank or a trust company without the State, as trustee. Such security document may pledge and assign the revenues provided for the security of the bonds, including proceeds from the sale of any project, or part thereof, insurance proceeds and condemnation awards, and may convey or mortgage the project and other property to secure a bond issue.

The revenues and other funds derived from the project, except such part thereof as may be necessary to provide reserves therefor, if any, shall be set aside at such regular intervals as may be provided in such security document in a sinking fund which may be thereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. The revenues so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. The use and disposition of money to the credit of such sinking fund shall be subject to the provisions of the security document. Such security document may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, without limitation, any one or more of the following:

- (1) Acceleration of all amounts payable under the security document;
- (2) Appointment of a receiver to manage the project and any other property mortgaged or assigned as security for the bonds;
- (3) Foreclosure and sale of the project and any other property mortgaged or assigned as security for the bonds; and

CHAPTER 1198 Session Laws—1977

- (4) Rights to bring and maintain such other actions at law or in equity as may appear necessary or desirable to collect the amounts payable under, or to enforce the covenants made in, the security document.

It shall be lawful for any bank or trust company incorporated under the laws of this State which may act as depositary of the proceeds of bonds, revenues or other funds provided under this Chapter to furnish such indemnifying bonds or to pledge such securities as may be required by the authority. All expenses incurred in carrying out the provisions of such security document may be treated as a part of the cost of the project in connection with which bonds are issued or as an expense of administration of such project.

The authority may subordinate the bonds or its rights under the financing agreement or otherwise to any prior, contemporaneous or future securities or obligations or lien, mortgage or other security interest.

Any such security document may contain such additional provisions as in the determination of the authority are necessary or convenient or effectuate the purposes of this Chapter.

“§ 159D-13. *Trust funds.*—Notwithstanding any other provisions of law to the contrary, all money received pursuant to the authority of this Chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this Chapter. The security document may provide that any of such moneys may be temporarily invested and reinvested pending the disbursement thereof in such securities and other investments as shall be provided in such security document, and shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purpose hereof, subject to such regulations as this Chapter and such security document may provide.

“§ 159D-14. *Tax exemption.*—The authority shall not be required to pay any taxes on any project or on any other property owned by the authority under the provisions of this Chapter or upon the income therefrom.

The interest on bonds issued by the authority shall be exempt from all income taxes within the State.

All projects and all transactions therefor shall be subject to taxation to the extent such projects and transactions would be subject to taxation if no public body were involved therewith.

“§ 159D-15. *Construction contracts.*—The authority may agree with the prospective operator that all contracts relating to the acquisition, construction, installation and equipping of a project shall be solicited, negotiated, awarded and executed by the prospective operator and its agents subject only to such approvals by the authority as the authority may require in such agreement. Such agreement may provide that the authority may, out of the proceeds of bonds, make advances to or reimburse the operator for all or a portion of its costs incurred in connection with such contracts.

“§ 159D-16. *Conflict of interest.*—If any officer, commissioner or employee of the authority shall be interested either directly or indirectly in any contract with the authority, such interest shall be disclosed to the authority and shall be set forth in the minutes of the authority, and the officer, commissioner, employee or member having such interest therein shall not participate on behalf of the authority in the authorization of any such contract; provided, however, that this section shall not apply to the ownership of less than one per

centum (1%) of the stock of any operator or obligor. Failure to take any or all actions necessary to carry out the purposes of this section shall not affect the validity of bonds issued pursuant to the provisions of this Chapter.

“§ 159D-17. *Credit of State not pledged.*—Bonds issued under the provisions of this Chapter shall not be deemed to constitute a debt of the State or any political subdivision or any agency thereof or a pledge of the faith and credit of the State or any political subdivision or any such agency, but shall be payable solely from the revenues and other funds provided therefor. Each bond issued under this Chapter shall contain on the face thereof a statement to the effect that the authority shall not be obligated to pay the same or the interest thereon except from the revenues and other funds pledged therefor and that neither the faith and credit nor the taxing power of the State or any political subdivision or any agency thereof is pledged to the payment of the principal of or the interest on such bonds.

“§ 159D-18. *Bonds eligible for investment.*—Bonds issued by an authority under the provisions of this Chapter are hereby made securities in which all public officers and agencies of the State and all political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them.

“§ 159D-19. *Revenue refunding bonds.*—(a) The authority is hereby authorized to provide by resolution for the issuance of refunding bonds of the authority for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this Chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the authority, for either or both of the following additional purposes:

- (1) Constructing improvements, additions, extensions or enlargements of the project or projects in connection with which the bonds to be refunded shall have been issued; and
- (2) Paying all or any part of the cost of any additional project or projects.

The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the authority in respect to the same shall be governed by the provisions of this Chapter which relate to the issuance of bonds, insofar as such provisions may be appropriate therefor.

The approvals required by G.S. 159D-7 and G.S. 159D-8 shall be obtained prior to the issuance of any refunding bonds; provided, however, that in the case where the refunding bonds of all or a portion of an issue are to be issued solely for the purpose of refunding outstanding bonds issued under this Chapter, the approval required by G.S. 159D-7 shall not be required as to the project financed with the bonds to be refunded.

(b) Refunding bonds issued under this section may be sold or exchanged for outstanding bonds issued under this Chapter and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of such outstanding bonds. Refunding bonds may be issued, in the determination of the authority, at any time not more than five years prior to the date of maturity or maturities or the date selected for the redemption of the bonds being refunded thereby. Pending the application of the

CHAPTER 1198 Session Laws—1977

proceeds of such refunding bonds, with any other available funds, to the payment of the principal of and accrued interest and any redemption premium on the bonds being refunded, and, if so provided or permitted in the security document securing the same, to the payment of any interest on such refunding bonds, such proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America which shall mature or which shall be subject to redemption by the holder thereof, at the option of such holder, not later than the respective dates when the proceeds, together with the interest accruing thereon will be required for the purposes intended.

“§ 159D-20. *No power of eminent domain.*—The authority shall not have any right or power to acquire any property through the exercise of eminent domain or any proceedings in the nature of eminent domain.

“§ 159D-21. *Dissolution of the authority.*—Whenever the board of commissioners of the authority and the governing bodies of two-thirds of the counties which are then members of the authority shall by joint resolution determine that the purposes for which the authority was formed have been substantially fulfilled and that all bonds theretofore issued and all other obligations theretofore incurred by the authority have been fully paid or satisfied, such board of commissioners and governing bodies may declare the authority to be dissolved. On the effective date of such joint resolution, the title to all funds and other property owned by the authority at the time of such dissolution shall vest as provided in said joint resolution, and possession of such funds and other property shall forthwith be delivered as provided in said joint resolution.

“§ 159D-22. *Annual reports, application of Article 3, Subchapter III of Chapter 159.*—The authority shall, promptly following the close of each calendar year, submit an annual report of its activities for the preceding year to the governing bodies of the counties which are then members of the authority. Each such report shall set forth a complete operating and financial statement covering the operations of the authority during such year.

The provisions of Article 3, Subchapter III of Chapter 159 of the General Statutes of North Carolina entitled ‘The Local Government Budget and Fiscal Control Act’ shall have no application to the authority.

“§ 159D-23. *Application of Article 9 of Chapter 25.*—The provisions of G.S. 25-9-104(e) and G.S. 25-9-302(6) to the contrary notwithstanding, the provisions of Article 9 of North Carolina Uniform Commercial Code, being G.S. 25-9-101 to G.S. 25-9-607, inclusive, shall apply transactions under this G.S. Chapter 159D to the same extent the provisions of such Article 9 would apply were G.S. 25-9-104(e) and G.S. 25-9-302(b) hereby repealed.

“§ 159D-24. *Officers not liable.*—No commissioner of any authority shall be subject to any personal liability or accountability by reason of his execution of any bonds or the issuance thereof.

“§ 159D-25. *Additional method.*—The foregoing sections of this Chapter shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that the issuance of bonds or refunding bonds under the provisions of this Chapter need not comply with the requirements of any other law applicable to the issuance of bonds.

“§ 159D-26. *Liberal construction.*—This Chapter, being necessary for the prosperity and welfare of the State and its inhabitants, shall be liberally construed to effect the purposes hereof.

“§ 159D-27. *Inconsistent laws inapplicable.*—Insofar as the provisions of this Chapter are inconsistent with the provisions of any general, special or local laws, or parts thereof, the provisions of this Chapter shall be controlling.”

Sec. 2. Severability. If any clause or other portion of this Chapter shall be held invalid, that decision shall not affect the validity of the remaining portions of this Chapter. It is hereby declared that all such remaining portions are severable and that the General Assembly would have enacted such remaining portions if the portions that may be so held to be invalid had not been included in this Chapter.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1685 CHAPTER 1199

AN ACT TO AMEND 1977 SESSION LAWS, CHAPTER 843 TO ADD ANSON COUNTY TO THOSE REQUIRING PHYSICIANS AND HOSPITALS TO REPORT CERTAIN WOUNDS, INJURIES AND ILLNESSES.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of 1977 Session Laws, Chapter 843 is amended by inserting the word “Anson” after the word “Alamance”, and before the word “Avery”.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 642 CHAPTER 1200

AN ACT TO PROVIDE AN INCOME TAX CREDIT FOR PROPERTY TAXES PAID ON MANUFACTURERS' INVENTORIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.5(a) is amended by adding a new subdivision (10) at the end thereof, to read as follows:

“(10) The amount of property taxes allowed under Division IV of this Article during the taxable year as a credit against the taxpayer's income tax.”

Sec. 2. G.S. 105-141(a) is amended by adding a new subdivision (22) at the end thereof, to read as follows:

“(22) The amount of property taxes allowed under Division IV of this Article during the taxable year as a credit against the taxpayer's income tax.”

Sec. 3. Article 4 of Subchapter I of Chapter 105 of the General Statutes, entitled “Schedule D. Income Tax”, is amended by adding a new Division IV at the end thereof, to read as follows:

“Division IV. Manufacturer's Income Tax Credit”.

“§ 105-163.01. *Short title.*—This division shall be known and may be cited as the Manufacturer's Income Tax Credit Act.

CHAPTER 1200 Session Laws—1977

“§ 105-163.02. *Definitions.*—For the purposes of this division and unless otherwise required by the context:

(a) ‘Book value’ of qualifying inventories means the net amount at which qualifying inventories are valued for North Carolina income tax purposes, and the date of such valuation shall be the first day of the taxable year.

(b) ‘Cost of manufacturing’ means the costs of producing the goods manufactured in this State. The term shall be interpreted so as to conform to generally accepted accounting practices in the industry. Unless in the opinion of the Secretary of Revenue the peculiar circumstances in any case justify a different meaning, such term shall be construed to include as elements of cost the following: the cost of materials put into production; the cost of labor applied to material conversions; and all of the other costs for services and facilities utilized in manufacturing, including factory superintendence, indirect labor, depreciation and other costs relating to factory buildings, machinery and equipment, factory supplies used, patent amortization, and factory light, heat and power. The ‘cost of materials put into production’ shall mean the inventories of raw materials and goods in process of manufacture at the beginning of the taxable year plus purchases of raw materials, less inventories of raw materials and goods in process of manufacture at the end of the taxable year. The ‘cost of manufacturing’ shall be for the taxable year as defined herein. Where the ‘taxable year’ of the taxpayer is less than 12 months (or 52 weeks) the taxpayer shall annualize his cost of manufacturing. ‘Annualize’ means the projection of an annual amount or rate ordinarily expressed in terms of a year, where the amount or rate to be projected has been experienced for less than a year, as in the case of a manufacturer having a short taxable year due to a change in his taxable year or due to his commencing operations in this State during his taxable year.

(c) ‘Establishment’ means a mill or plant in North Carolina at which manufacturing operations are performed, and which constitute an economic unit at a single physical location or site, unless otherwise indicated herein. The word ‘establishment’ includes along with a manufacturing plant all sites in North Carolina where raw materials and/or partially manufactured goods are stored away from the manufacturing plant for use in such manufacturing plant. Two or more plants engaged in different steps of a manufacturing process constitute an establishment if goods must move through each plant before becoming a finished product even though the plants are at different sites in North Carolina. Two or more plants having a common ownership in North Carolina located at different sites and producing the same class or type of products may be deemed at the option of the taxpayer to be a single establishment for the purposes of this division.

(d) ‘Finished goods’ means those articles of tangible personal property which are the products of the manufacturing process after all production in North Carolina by the manufacturer in this State has been completed and the products are being held for sale or are being held for shipment out of this State for further manufacture by the same manufacturer in another state before they are ready for sale.

(e) ‘Goods in process of manufacture’ means materials to which manufacturing services have been applied by the manufacturer in this State and which do not meet the definition of finished goods in (d) above.

(f) 'Inventory' means raw materials and supplies, goods finished and in the process of manufacture, and merchandise on hand, in transit, in storage or consigned to others at the end of the accounting period.

(g) 'Manufacturer' means a taxpayer taxable under any provision of Article 4 of this Subchapter whose business is such as would cause him to be classified as a manufacturer in the Standard Industrial Classification Manual whose publication by the Executive Office of the President, Office of Management and Budget, occurred next before January 1, 1978; provided, however, that fabricating processors whose cost of materials consumed is seventy-five percent (75%) or more of their cost of manufacturing shall not be deemed to be manufacturers under this division. Costs incurred in performance of construction activities by a fabricator shall not be included in cost of manufacturing for purposes of this division.

(h) 'Property taxes' means taxes levied by counties and municipalities in this State under authority of the Machinery Act on qualifying inventories located in this State. The term shall not include any amounts paid as costs, penalties, interest or other charges notwithstanding the fact that such amounts may be defined as taxes under the Machinery Act. The term does not include taxes paid subsequent to the effective date of this Act with respect to inventories listed for taxation prior to such effective date, or taxes paid with respect to inventories which the taxpayer had failed to list for a regular listing period prior to such effective date.

(i) 'Qualifying inventories' means inventories of raw materials and goods in process of manufacture in this State which have been assessed for property tax purposes. The book value of qualifying inventories shall be determined as of the valuation date established for inventories for property tax purposes, pursuant to G.S. 105-285(c), which inventories give rise to the total property tax used in computing the manufacturer's income tax credit allowed under G.S. 105-163.03(a).

(j) 'Raw materials' means those articles of tangible personal property which are held by a manufacturer for use as ingredient or component parts of finished goods to be manufactured by the manufacturer in North Carolina.

(k) 'Taxable year' shall have the meaning ascribed to such term in G.S. 105-135(9) and G.S. 105-130.2(5), as appropriate. In addition, 'taxable year' shall be that taxable year for which a manufacturer files an income tax return upon which the tax credit provided for under this division is claimed.

(l) 'Total property tax' means the total amount of property tax paid by a manufacturer to counties and municipalities in this State during his taxable year on qualifying inventories. The term does not include taxes paid subsequent to the effective date of this act with respect to inventories listed for taxation prior to such effective date, or taxes paid with respect to inventories which the taxpayer had failed to list for a regular listing period prior to such effective date.

"§ 105-163.03. *Tax Credit*.—(a) A credit against the income tax imposed in this Article may be claimed by a manufacturer for that portion of property taxes paid by such manufacturer to counties and municipalities in this State upon qualifying inventories on hand on the first day of the taxable year which were listed for taxation and upon which taxes have been assessed and paid, the amount of the credit shall be determined as follows:

- (1) the book value of the manufacturer's qualifying inventory in each establishment shall be divided by the manufacturer's cost of manufacturing for that establishment, the quotient of which division shall be determined to the nearest five decimal places;
 - (2) from the quotient determined in (1) above shall be subtracted .15;
 - (3) if the amount determined in (2) above is zero or less than zero, the tax credit shall be zero;
 - (4) if the difference obtained in (2) above is greater than zero, that difference shall be divided by the amount obtained in (1) above, the quotient of which division shall be determined to the nearest five decimal places;
 - (5) if the amount determined in (2) above is greater than zero, the total property tax on qualifying inventories paid by each establishment of the manufacturer to counties and municipalities in this State shall be multiplied by the amount determined in (4) above for the same establishment, the result of which shall be the manufacturer's credit for that establishment.
 - (6) The sum of credits applicable to all of the manufacturer's establishments shall be the manufacturer's income tax credit.
 - (7) The value of inventories of raw materials located in the State but not at a manufacturing establishment, shall be apportioned to establishments for the purposes of paragraphs (1) through (5) if inventories at such location are shipped to more than one establishment. The value shall be apportioned by the proportion of shipments from the site of the inventories to each establishment during the taxable year. If different types of materials are shipped to two or more manufacturing plants, the value of the materials of each type shall be attributed to the plant at which such materials are customarily used; provided that if any type of such material is used at more than one establishment, the qualifying inventories of such type of material shall be apportioned between the establishments at which used in the proportion of shipments from the site of the inventories to each establishment during the taxable year. Where qualifying inventories are stored at one manufacturing establishment but are in fact used to supply raw materials to one or more other establishments, the value of such inventory shall be attributed to each establishment at which the inventories are used in accordance with the provisions of this paragraph for attributing the value of inventories not located at a manufacturing establishment.
 - (8) Where the 'total property tax' includes taxes which were paid after the time during which said taxes could have been paid at par pursuant to G.S. 105-360(a)(1), the tax credit for such property taxes shall be computed using the ratios determined under paragraphs (1) through (4) herein for the taxable year in which such property taxes would have been payable at par.
- (b) The manufacturer's income tax credit shall be applied against the income tax due from the manufacturer for the taxable year in which the property tax which is the basis for the credit was actually paid. If such credit exceeds the income tax due from, or if a loss is sustained by, the manufacturer for such taxable year, the excess credit may be carried forward for not more than five taxable years next succeeding the taxable year in which the credit first became

available to the manufacturer. In such case, the excess credit shall be applied against income tax due in the earliest taxable year possible and to its maximum extent before any excess credit may be carried forward to a later taxable year.

(c) If any portion of the property taxes used in calculating a credit in G.S. 105-163.03 is at any time credited or refunded to the manufacturer by the county or municipality which imposed the tax, the manufacturer shall notify the Secretary of Revenue within 90 days, who shall recompute the tax due for the income tax year in which the credit was claimed. Any additional tax found to be due therefor shall be assessed as provided in G.S. 105-241.1.

(d) In order for a manufacturer to be entitled to the tax credit provided in G.S. 105-163.03, said manufacturer, in listing his property for taxation pursuant to the provisions of G.S. 105-285, shall provide to the taxing authority a breakdown of his inventories into raw materials, goods in process of manufacture, finished goods, and supplies and other property included in the listing as 'inventories', and said manufacturer shall attach a copy of such listings with his income tax return upon which the tax credit is claimed.

"§ 105-163.04. *Manufacturer must keep records.*—Every manufacturer shall maintain and preserve such books and records as may be necessary to determine or verify the amount of income tax credit to which he may be entitled under the provisions of this Article. It shall be the duty of such manufacturer to support fully each calculation by means of which he has derived the credit. Such books and records shall be open for examination at all reasonable times to the Secretary or any of his duly authorized agents. The requirements of this section shall be in addition to any other record-keeping requirements imposed by other provisions of this Subchapter."

Sec. 4. Subsection (1) of G.S. 105-275, as the same appears in the 1977 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, is amended by deleting the number "12" from line 4 of said subsection and substituting therefor the number "48"; and by deleting from the third sentence thereof the phrase "next tax listing date" and substituting therefor the phrase "the first tax listing date following 48 months of storage".

Sec. 5. Subchapter II of Chapter 105 of the General Statutes is amended by adding thereto a new section, G.S. 105-289.1, immediately after G.S. 105-289, to read as follows:

"§ 105-289.1. *Department of Revenue, duties, manufacturers' inventories.*—

(a) In the exercise of its supervision over the valuation of property, as provided for in G.S. 105-288, the Department of Revenue shall have the authority to review the valuation of 'qualifying inventories' of 'manufacturers', as those terms are used in the Manufacturers Income Tax Credit Act. If, in the opinion of the Secretary of Revenue, any of such inventories are valued in excess of their true value in money, the Secretary shall determine their true value and shall order the taxing unit to reduce the value of such inventories to their true value and to recalculate the tax thereon. Notwithstanding any provisions of law to the contrary, if the manufacturer has overpaid the tax as recalculated, the taxing unit shall thereupon make any refund which is found to be due to the manufacturer.

(b) The Secretary's order shall be in writing and shall be served upon the appropriate local taxing authority (as defined in G.S. 105-289(e)) and upon the manufacturer by any means authorized for the service of written notices in Rule 5 of the Rules of Civil Procedure. However, any order served more than

CHAPTER 1200 Session Laws—1977

five years after the date as of which the inventories which are the subject of the order were required to be listed shall be void and of no effect.

(c) If the taxing unit shall be aggrieved by the Secretary's order, it may, within 30 days after service of the order, except to the order and appeal therefrom to the Property Tax Commission by filing a written notice of appeal and a written statement of the grounds of appeal with the Secretary of Revenue and with the Property Tax Commission. Upon timely appeal, the Property Tax Commission shall proceed under the provisions of G.S. 105-290(b). The parties to the proceeding shall be the taxing unit and the Secretary of Revenue."

Sec. 6. This act shall become effective January 1, 1980, and shall apply to taxable years beginning on and after that date.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 944

CHAPTER 1201

AN ACT TO REMOVE TERRITORY FROM THE MAIDEN FIRE PROTECTION DISTRICT AND ADD TERRITORY TO THE BANDYS FIRE PROTECTION DISTRICT IN CATAWBA COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The following territory is hereby removed from the Maiden Fire Protection District and placed in the Bandys Fire Protection District in Catawba County:

BEGINNING at a point (1) at its intersection with Road 1003 and the Catawba-Lincoln County line; thence in a northeasterly direction following the Brentwood Insurance Rated District boundaries to a point (2) on Road 1874, 1.1 miles northeast of its intersection with Road 1992; thence in a northerly direction to a point (3) on Maiden Creek 0.1 mile southwest of its intersection with Road 1858; thence in a southeasterly direction to a point (4) 500 feet south of Road 1858; thence in a southwesterly direction returning to point (2) on Road 1874; thence in a southeasterly direction to a point (5) in Lippards Creek; thence in a northeasterly direction following Lippards Creek to a point (6) on Road 1860 at the bridge; continuing in a northeasterly direction following Lippards Creek to a point (7) at its intersection with Road 1858; thence in an easterly direction to a point (8) on Road 1857, 1.3 miles south of the intersection of N. C. 16 and Road 1857; thence in a southerly direction 500 feet east of Road 1857 to a point (9) on Road 1857 and the Catawba-Lincoln County line; thence in a westerly direction following the Catawba-Lincoln County line to point of BEGINNING.

Sec. 2. The Expanded Bandys Fire Protection District shall have the following boundaries:

BEGINNING at point one at the intersection of N. C. Highway 10 and Road 1810; thence along the centerline of N. C. Highway 10 to point (2) at its intersection with Road 1003, excluding property on the northwest side of N. C. Highway 10 between this and the preceding point; thence southeasterly along the centerline of Road 1003 to point (3) at the bridge over Ball Creek, excluding property on the northeast side of Road 1003 between this and the preceding point; thence southeasterly to point (4) on Road 1822, 0.1 mile north of its intersection with Road 1824; thence northeasterly to point (5) on Road 1824, 0.9 mile northeast of its intersection with Road 1822, including property on

Road 1824 between this and the preceding point; thence southeasterly to point (6) on Road 1833 at the bridge over Southern Railroad; thence southeasterly to point (7) on Road 1848, 0.7 mile southeast of its intersection with Road 1817, including property on Road 1931; thence southwesterly to point (8) on Road 1817, 0.7 mile south of its intersection with Road 1848; thence southwesterly to point (9) on Road 1818; 0.9 mile south of its intersection with Road 1848; thence southwesterly to point (10) on Road 1817, 0.3 mile northeast of its intersection with Road 1815; thence southeasterly to point (11) on Road 1815, 0.3 mile east of its intersection with Road 1817; thence southwesterly to point (12) on Road 1891, 0.4 mile northeast of its intersection with N. C. Highway 16, excluding property on Road 1891 between this and the preceding point; thence southeasterly to point (13) on N. C. Highway 16, 0.4 mile southeast of its intersection with Road 1891; thence southerly to point (14) on Road 1855 0.5 mile east of its intersection with Road 1856; thence southwesterly to point (15) at the intersection of Roads 1856 and 1854; thence due south to point (16) on the Catawba-Lincoln County Line; thence westerly along the Catawba-Lincoln County Line to point (17) at its intersection with Road 1003; thence northeasterly to point (18) on Road 1003, 0.2 mile northeast of its intersection with the Catawba-Lincoln County Line, including property on Road 1003 between this and the preceding point; thence easterly to point (19) on Road 1863, 0.2 mile north of its intersection with the Catawba-Lincoln County Line; thence southeasterly to point (20) on Road 1862, 0.1 mile north of its intersection with the Catawba-Lincoln County Line; thence northeasterly to point (21) on Road 1855, 1.5 miles west of its intersection with Road 1861; thence northwesterly to point (22) at the intersection of Roads 1003 and 1864; thence northerly to point (23) on Road 1874, 0.1 mile southwest of its intersection with Road 1866, including property on Roads 1864 and 1866; thence northerly to point (24) on Road 1810; 0.3 mile southwest of its intersection with Road 1858, excluding property on Road 1915; thence northeasterly to point (25) on N. C. Highway 16, 0.2 mile northwest of its intersection with Road 1810; thence northerly to point (26) on Road 1802, 0.4 mile southwest of its intersection with Road 1806; thence northeasterly to point (27) on Road 1806, 0.4 mile northwest of its intersection with Road 1802; thence northeasterly to point (28) on Road 1807, 1.0 mile northwest of its intersection with Road 1807; thence northeasterly to point (29) on Road 1809, 0.3 mile southwest of its intersection with Road 1810; thence northeasterly to point (1), the beginning, including property on Road 1809 between this and the preceding point.

Sec. 3. The expanded Bandys Fire District and the Maiden Fire District shall have the same powers and rate of taxation as formerly, and shall continue to be subject to the provisions of Article 3A, Chapter 69 of the General Statutes of North Carolina.

Sec. 4. This act shall become effective on July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 953

CHAPTER 1202

AN ACT TO CONFIRM CERTAIN PORTIONS OF THE CORPORATE LIMITS AND TO RATIFY ACTIONS OF THE BOARD OF COMMISSIONERS OF THE TOWN OF MORRISVILLE.

The General Assembly of North Carolina enacts:

Section 1. The actions of the Board of Commissioners of the Town of Morrisville taken to annex the following described areas are hereby ratified, validated, and confirmed, and the corporate limits of the Town of Morrisville are hereby declared to include such areas:

(a) First Tract

All that certain tract of land lying in Wake County on the western side of N. C. Highway No. 54 and on the eastern side of the Southern Railway property and belonging, now or formerly, to W. A. Green according to a survey by C. R. Edgerton in April 1964, and being more particularly described according to that survey, as follows:

Beginning at an iron stake in the western margin of N. C. Hwy. 54, said point being the southeastern corner of the tract owned by L. Edward Gallup and also located S 68° 15' W 68.18 feet from the northwest corner of lot no. 1 in the Green Woods Subdivision as shown on the map recorded in Map Book 1975, Vol. II, Page 234 of the Wake County Registry, and runs thence S 68° 15' W 518.7 feet to an iron stake in the eastern margin of the Southern Railway Company property; then with said eastern margin of the railway property, parallel to and 100.0 feet from the centerline of the track, S 13° 59' E 224.8 feet to a point; thence S 17° 39' E 125.45 feet to a point; thence S 19° 32' E 97.73 feet to an iron stake, a corner of the E. G. Herndon estate; thence leaving the railway company property and running with said Herndon line, N 84° 00' E 418.0 feet to an iron stake in the western margin of N. C. Hwy. 54; thence with said margin of the highway, N 02° 06' W 261.6 feet to a point; thence N 85° 57' W 106.65 feet to a point; thence N 09° 47' W 105.32 feet to a point; thence N 13° 37' W 111.1 feet to the point of beginning, containing 5.76 acres.

(b) Second Tract

All that tract of land lying in Wake County on the eastern side of N. C. Hwy. 54 and comprised of two parcels, one parcel being Green Woods Subdivision as shown in Book of Maps 1975, Vol. II, Page 234, and the other parcel being that shown on a map by Boney & Newcomb dated April 1971, containing 31.9 acres and entitled "Addition to Corporate Limits", Town of Morrisville. The Second Tract is more particularly described as follows:

Beginning at an iron stake in the eastern margin of N. C. Highway No. 54, said point being the northwest corner of Green Woods Subdivision, and running thence with the line between said subdivision and the property of Stella C. Green, N 80° 03' 38" E 202.71 feet; thence S 88° 00' 00" E 394.07 feet; thence S 89° 03' 45" E 345.65 feet; thence N 30° 39' 19" W 52.59 feet; thence N 46° 51' 51" W 86.32 feet; thence N 09° 36' 51" W 103.81 feet; thence N 24° 58' 11" E 87.69 feet; thence N 49° 33' 11" W 155.74 feet; thence N 08° 34' 06" W 64.81 feet; thence N 35° 49' 36" W 140.96 feet; thence N 17° 50' 36" W 41.76 feet to a point in the line of Mobile City; thence with the line of the Mobile City property, S 81° 06' 54" E 1094.78 feet to a concrete monument; thence S 37° 30' 09" E 1797.81 feet to a concrete monument in the northern margin of the Airport Road (SR No. 1002); thence with said road margin S 46° 00' 25" W

342.74 to the corner of Henry M. Hooks' property; thence with his line, N 28° 48' 09" W 300.25 feet to an iron stake; thence S 46° 00' 31" W 149.90 feet to an iron stake in the line of Willie H. Bishop; thence with said line, N 29° 48' 28" W 442.79 feet to an iron stake; thence N 29° 41' 43" W 207.29 feet to Bishop's northeast corner; thence S 45° 49' 21" W 133.88 feet to an iron stake, the corner between said Bishop and Richard N. Wells; thence with Wells' line S 44° 49' 25" W 73.85 feet to an iron stake, the corner of the 31.9 acre parcel mentioned above; thence with the line of said parcel and Richard N. Wells, S 39° 59' W 209.33 feet to an old angle iron; thence S 34° 59' E 376.51 feet to an iron pipe, Wilba Brown's corner; thence with Brown's line S 76° 32' W 396.70 feet to an iron pipe; thence S 19° 51' E 33.30 feet to an iron pipe, Emmett Hollway's corner; thence as Hollway's line S 15° 23' W 361.04 feet to an iron pipe, Luther G. Burton's corner with Hollway and Julia W. Cotten; thence with the Cotten line, S 73° 31' W 230.72 feet to a marked tree; thence S 70° 34' W 431.57 feet to an iron pipe; thence S 70° 38' W 185.27 feet to an iron pipe, the corner between Julia W. Cotten and Peggy C. Ridout in the line of the present Town limits; thence with said Town limits, N 15° 03' W 1198.22 feet to a railroad cross tie; thence S 68° 51' W 292.15 feet to an iron pipe in the eastern margin of N. C. Hwy. 54; thence with the eastern margin of the highway, N 01° 34' W 203.5 feet to an iron pipe, the Southwest corner of Green Woods Subdivision; thence continuing with Hwy. 54, N 02° 55' 15" W 100.46 feet; thence N 07° 43' 54" W 177.95 feet; thence N 09° 56' 22" W 114.59 feet to the point of beginning, containing 70.84 acres.

Sec. 2. (a) Any and all official acts, actions, expenditures and levies of taxes or assessments by the Mayor and Board of Commissioners of the Town of Morrisville since March 7, 1975, with respect to or affecting the territory and properties described in Section 1(a) of this act and since August 4, 1970, with respect to or affecting the territory and properties described in Section 1(b) of this act, are hereby ratified, validated and confirmed.

(b) Any and all official votes, acts, and actions of any member of the Board of Commissioners of the Town of Morrisville who has resided or who resides in any of the territory described in Section 1 of this act are hereby ratified, validated and confirmed.

(c) The November 1973 election of H. C. Sears, III; the November 1975 election of Harry D. Dewey and Emma G. Walton; and the November 1977 election of Emma G. Walton to the Town Board by the qualified voters of the Town of Morrisville are hereby ratified, validated and confirmed.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 957

CHAPTER 1203

AN ACT TO ALLOW THE TOWN OF DREXEL TO ASSIST THE DREXEL COMMUNITY CENTER, AND TO PRESCRIBE THE CORPORATE BOUNDARIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 371, Session Laws of 1961 and Chapter 743, Session Laws of 1965, are repealed.

Sec. 2. Section 2 of Chapter 24, Private Laws of 1913, as amended by Section 1 of Chapter 32, Private Laws of 1933 (Extra Session), being the Charter of the Town of Drexel, is amended to read:

“Sec. 2. That the corporate limits of the Town of Drexel are as follows:

CORPORATE BOUNDARY

TOWN OF DREXEL

Beginning on an iron stake located in the center of Town on the East side of the depot, said point being the center of a 2640 feet radius which was the original corporate boundary, and thence runs West 2640 feet to a point in the radius; thence with the radius S 2° - 9'E 161.27 feet; thence leaving the radius West 415 feet; thence S 20° W 165 feet; thence East 465 feet; to a point on the radius; thence with the radius S 15° - 13'E 691.15 feet; thence leaving the radius the following calls: N 68° - 31' W, 416.5 feet; S 63° - 21'W, 536.92 feet; S 83° - 38'W, 178.41 feet; N 75° W, 240 feet; N 17° - 30'E, 200 feet; N 17° - 30'E, 262.5 feet; N 45° - 55'W, 321 feet; N 17° W, 138 feet; N 3° - 30'W, 140 feet; N 24° W, 124 feet; N 45° W, 179 feet; N 29° W, 242 feet; N 44° - 30' W, 86 feet; N 89° - 15' W, 1810 feet; S 15° E, 305 feet to a point at the edge of a turn around 80 feet in diameter; thence with the arc of the turnaround in a counter clockwise direction to the edge of Poteat Drive; Thence S 15° E, 300 feet; S 4° - 35'E, 75 feet; S 85° - 30'W, 258 feet; S 15° E, 135 feet; N 85° E, 239 feet; S 4° - 35'E, 300 feet; S 85° W, 200 feet; S 4° - 35'E, 200 feet; N 85° E, 200 feet; S 2° W, 460 feet; S 84° - 55'E, 50 feet; S 84° - 55'E, 100 feet; N 2° E, 446 feet; S 84° E, 350 feet; N 77° - 15'E, 50 feet; S 2° W, 452 feet; N 84° - 55'W, 147.65 feet; S 5° W, 250 feet; S 85° - 31' - 30"E, 1425.83 feet; S 6° W, 30 feet; S 6° W, 280 feet; S 84° E, 200 feet; S 84° E, 200 feet; S 84° E, 200 feet; S 84° E, 40 feet; S 85° - 28'E, 150 feet; S 85° - 29'E, 154 feet; S 84° - 46' - 30" E, 153.08 feet; S 82° - 47'E, 39.82 feet; S 3° - 15' - 30" W, 218.14 feet; S 5° - 22'W, 134 feet; S 5° - 24'W, 200.10 feet; S 5° - 43'W, 90.05 feet; S 5° - 01'W, 269.65 feet; S 85° - 20'E, 420.04 feet; S 76° - 54' - 30" E, 61.65 feet; S 81° - 15'E, 61.38 feet; S 3° - 57'W, 316.63 feet; N 86° - 05'E, 392.84 feet; N 85° - 38'E, 262.77 feet; N 88° - 11'E, 318.63 feet; N 10° - 10' - 13"E, 236.47 feet; S 48° - 25'E, 120.28 feet; S 48° - 25'E, 433.20 feet; S 61°E, 135 feet; S 0° - 43'E, 200.11 feet; S 83° - 52'E, 451.8 feet; S 81°E, 175 feet; N 89°E, 358 feet; N 63° - 30'E, 126 feet; N 9°E, 117 feet; N 52°E, 68 feet to a point in the creek; thence with the creek 30 feet; thence N 5°E, 547.5 feet; N 54°W, 122 feet; N 49° - 30'W, 100 feet; N 39° - 30' W, 100 feet; N 29° - 30'W, 94 feet; N 12° - 30'E, 105 feet; N 12° - 30'E, 110 feet to a point on the radius; thence with the radius N 80° - 35'E, 652.75 feet; thence leaving the radius the following calls: S 30°W, 25 feet; S 53°E, 10 feet; East, 110 feet; S 45° - 49'W, 38 feet; S 44°E, 178 feet; N 45° - 49'E 28 feet; S 44° - 11'E, 200 feet; N 45° - 49'E, 160 feet; N 44° - 11'W, 250 feet; N 45° - 49'E, 25 feet; N 24° - 29'E, 140 feet to a point on the radius; thence with the radius N 64° - 29'E, 253.42 feet; thence leaving the radius the following calls: S 45° - 27'E, 296 feet; S 48° - 45'E, 498.5 feet; N 36° - 30'E, 360 feet; N 45° -

27°W, 100 feet; N 36° - 15°E, 205 feet; N 48° - 45°W, 515 feet to a point on the radius; thence with the radius N 42° - 15°E, 556.76 feet; thence leaving the radius the following calls: S 51°E, 249.5 feet; N 52°E, 72.25 feet; N 2° - 30°E, 205 feet; N 76° - 20°E, 177.8 feet; N 29° - 10°W, 87.5 feet; N 38° - 40°E, 196 feet; S 26°E, 817 feet; N 26°E, 759 feet; West, 280.5 feet; N 41° - 50°W, 462 feet; North, 165 feet; West, 250 to a point on the radius; thence with the radius the following calls: N 8° - 55°E, 875.45 feet; N 6° - 42°W, 499.16 feet; N 11° - 54°W, 222.70 feet; thence leaving the radius the following calls: N 2° - 30°E, 115 feet; N 2° - 30°E, 456 feet; N 9° - 30°W, 118 feet; N 9° - 30°W, 338 feet; S 45°W, 355 feet; N 6°E, 65.2 feet; N 6°E, 150 feet; N 69° - 30°W, 195 feet; N 19°E, 25 feet; N 22° - 30°E, 232 feet; N 15°W, 100.5 feet; S 72° - 30°W, 74.5 feet; S 72° - 30°W, 178.5 feet; S 72° - 30°W, 25 feet; S 18°E, 171 feet; S 19°W, 80 feet to a point on the radius; thence with the radius the following calls: N 65° - 08°W, 1897.03 feet; S 83° - 39°W, 1029.05 feet; S 65°W, 699.04 feet; S 52° - 30°W, 529.88 feet; S 34° - 05°W, 1109.68 feet; S 10° - 55°W, 1025.21 feet to the point of beginning, containing 1.205 square miles."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 1012

CHAPTER 1204

AN ACT TO TRANSFER THE LAW ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND FROM THE DEPARTMENT OF STATE AUDITOR TO THE DEPARTMENT OF STATE TREASURER AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION'S REPORT ON POLICE AND FIREMEN'S RETIREMENT.

The General Assembly of North Carolina enacts:

Section 1. A new section is added to Article 4 of Chapter 143A of the General Statutes to read as follows:

"§ 143A-38.1. *The Law Enforcement Officers' Benefit and Retirement Fund; transfer.*—The Law Enforcement Officers' Benefit and Retirement Fund, as contained in Article 12 of Chapter 143 of the General Statutes and the laws of this State, is hereby transferred by a Type II transfer to the Department of State Treasurer."

Sec. 2. G.S. 143A-28 is repealed.

Sec. 3. G.S. 143-166(b), as it appears in the 1978 Replacement to Volume 3C of the General Statutes, is amended in the first sentence by deleting the words "shall consist of the State Auditor, who shall be chairman ex officio of said board, the State Treasurer" and by inserting in lieu thereof the following: "shall consist of the State Treasurer, who shall be chairman ex officio of said board, the State Auditor".

Sec. 4. This act shall become effective on July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1200

CHAPTER 1205

AN ACT TO AMEND ARTICLE 13B OF CHAPTER 130 OF THE GENERAL STATUTES TO PROVIDE FOR PENALTIES AND REMEDIES.

The General Assembly of North Carolina enacts:

Section 1. Article 13B of Chapter 130 of the General Statutes is hereby amended by adding a new section to read as follows:

“§ 130-166.21E. *Penalties, remedies.*—(a) The department may impose an administrative penalty on any person

(1) who fails to comply with this Article, any order issued hereunder, or the solid waste management rules, or

(2) who refuses to allow an authorized representative of the Commission for Health Services, any local board of health, or the Department of Human Resources a right of entry as provided for in G.S. 130-204.

(b) Each day of a continued violation shall constitute a separate violation. Such penalty shall not exceed five hundred dollars (\$500.00) per day in the case of a violation involving nonhazardous waste. Such penalty shall not exceed one thousand dollars (\$1,000) per day in the case of a violation involving hazardous waste. In determining the amount of the penalty, the department shall consider the degrees and extent of the harm caused by the violation and the cost of rectifying the damage. Any person assessed a penalty shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment.

(c) Any person wishing to contest a penalty or other order issued under this Article shall be entitled to an administrative hearing and judicial review conducted according to the procedures outlined in G.S. 150A-23 through G.S. 150A-52.

(d) The secretary may bring a civil action in the superior court of the county in which the violation is alleged to have occurred to recover the amount of the administrative penalty whenever a person

(1) who has not requested an administrative hearing fails to pay the penalty within 60 days after being notified of such penalty, or

(2) who has requested an administrative hearing fails to pay the penalty within 60 days after service of a written copy of the decision as provided in G.S. 150A-36.

(e) The department may promulgate rules concerning the imposition of civil penalties under this section.

(f) In addition to any other remedies provided for in this section, the secretary may institute a civil action in the Superior Court of the county in which the defendant in said civil action resides for injunctive relief to prevent a threatened or continuing violation of any provision of this Article or any order or regulation issued pursuant to this Article.”

Sec. 2. G.S. 130-203 and G.S. 130-305 shall be inapplicable to this Article.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1224

CHAPTER 1206

AN ACT TO CREATE STATUTORY AUTHORITY FOR GRANTS FOR NONFEDERAL COSTS OF SMALL WATERSHED PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 139 of the General Statutes of North Carolina is hereby amended by adding thereto a new Article to be entitled Article 4 and to read as follows:

"ARTICLE 4.

"Grants for Small Watershed Projects.

"§ 139-48. *State Soil and Water Conservation Commission authorized to accept applications.*—The State Soil and Water Conservation Commission is authorized to accept applications for grants for nonfederal costs relating to small watershed projects authorized under Public Law 566 (83rd Congress as amended) from local sponsors of such projects properly organized under the provisions of either Chapter 156 of the General Statutes of North Carolina or Chapter 139 of the General Statutes of North Carolina. Applications shall be made on forms prescribed by the commission.

"§ 139-49. *Purposes for which grants may be requested.*—Applications for grants may be made for the nonfederal share of small watershed projects for the following purposes in amounts not to exceed the percentage of the nonfederal costs indicated:

(a) land rights acquisition for impounding or retarding water - fifty percent (50%);

(b) engineering fees - fifty percent (50%); (c) anticipated future and present water supply needs in conjunction with watershed improvement works or projects as described in G.S. 139-37.1 - fifty percent (50%); (d) installation of recreational facilities and services (to include land acquisition) as described in General Statute 139-46 - fifty percent (50%); (e) construction costs for water management (drainage or irrigation) purposes - fifty percent (50%); (f) conservation and replacement of fish and wildlife habitat as described in G.S. 139-46 - seventy-five percent (75%). "§ 139-50. *Review of applications.*—(a)

The State Soil and Water Conservation Commission shall receive and review applications for grants for small watershed projects authorized under Public Law 566 (83rd Congress, as amended) and approve, approve in part, or disapprove all such applications. (b) In reviewing each application, the State Soil and Water Conservation Commission shall consider:

(1) the financial resources of the local sponsoring organization;

(2) nonstructural measures such as sediment control ordinances and flood plain zoning ordinances enacted and enforced by local governments to alleviate flooding;

(3) regional benefits of projects to an area greater than the area under jurisdiction of the local sponsoring organization;

(4) any direct benefit to State-owned lands and properties.

"§ 139-51. *Recommendation of priorities and disbursal of grant funds.*—Whenever two or more applications for grants are approved in whole or in part, the State Soil and Water Conservation Committee shall establish priorities among the several applications for disbursal of grant funds. To the extent that funds are available, the State Soil and Water Conservation Commission may authorize the disbursal of grant funds to the applicants consistent with the

established priorities. The State Soil and Water Conservation Commission shall promulgate regulations to provide for an audit of grant funds to assure that they are spent for the purposes delineated in the application. Established priorities may be reviewed from time to time and revised if circumstances warrant such revision.

“§ 139-52. *Availability of funds.*—All grants shall be contingent upon the availability of funds for disbursement to applicants. At the end of each fiscal year the State Soil and Water Conservation Commission shall notify all applicants whose applications have been approved and to whom grant funds have not been disbursed of the status of their application. At the time of notification the State Soil and Water Conservation Commission shall notify the applicants of the availability of funds for grants in the upcoming fiscal year and at the same time shall notify the applicants of their position on any priority list that may have been established for the disbursal of grant funds for small watershed projects.”

Sec. 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1559

CHAPTER 1207**AN ACT TO ALLOW RELEASE OF CERTAIN INFORMATION
PERTAINING TO STATE EMPLOYEES.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 126-24, as the same is found in the 1977 Cumulative Supplement to Volume 3B of the General Statutes is amended by adding a new paragraph immediately following subsection (5) to read as follows:

“Notwithstanding any other provision of this Chapter, any department head may, in his discretion, inform any person or corporation of any promotion, demotion, suspension, reinstatement, transfer, separation, dismissal, employment or non-employment of any applicant, employee or former employee employed by or assigned to his department or whose personnel file is maintained in his department and the reasons therefor and may allow the personnel file of such person or any portion thereof to be inspected and examined by any person or corporation when such department head shall determine that the release of such information or the inspection and examination of such file or portion thereof is essential to maintaining the integrity of such department or to maintaining the level or quality of services provided by such department; provided that prior to releasing such information or making such file or portion thereof available as provided herein, such department head shall prepare a memorandum setting forth the circumstances which the department head deems to require such disclosure and the information to be disclosed. The memorandum shall be retained in the files of said department head and shall be a public record.”

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1560

CHAPTER 1208

AN ACT TO INCORPORATE THE TOWN OF BELWOOD IN CLEVELAND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Town of Belwood, as described in the charter enacted by Section 2 of this act, is hereby incorporated.

Sec. 2. The Charter of the Town of Belwood reads as follows:

“THE CHARTER OF THE TOWN OF BELWOOD.

“CHAPTER I.

“INCORPORATION AND CORPORATE POWERS.

“Sec. 1.1. Incorporation and corporate powers. The inhabitants of the Town of Belwood are a body corporate and politic under the name of the ‘Town of Belwood’. Under that name the Town shall have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

“CHAPTER II.

“CORPORATE BOUNDARIES.

“Sec. 2.1. Town boundaries. Until modified in accordance with law, the boundaries of the Town of Belwood are a circle with a radius of two (2) miles with its center at the old school building in the Community of Belwood.

“CHAPTER III.

“GOVERNING BODY.

“Sec. 3.1. Structure of governing body; number of members. The governing body of the Town of Belwood shall be a board of commissioners, composed of four members. There shall be a mayor who shall have the powers conferred upon mayors as provided in Chapter 160A of the General Statutes.

“Sec. 3.2. Temporary officers. Until the initial election provided for by Sec. 4.4 of this Charter, Robert Warlick is hereby appointed Mayor. B. C. Turner, Flay Willis, High King, and Dwight Beam are hereby appointed members of the Board of Commissioners of the Town of Belwood, and they shall possess and may exercise the powers granted to the Board of Commissioners until their successors are elected and qualified pursuant to this Charter.

“CHAPTER IV.

“ELECTIONS.

“Sec. 4.1. Conduct of Town elections. Town officers shall be elected on a nonpartisan basis and the results determined by a majority of votes cast, with a run-off election if necessary, as provided by G.S. 163-279(a)(4) and G.S. 163-293. Elections shall be conducted as provided in Articles 23 and 24 of Chapter 163 of the General Statutes.

“Sec. 4.2. Manner of election of board; term of office. The qualified voters of the entire Town shall elect the members of the board. Members shall be elected for staggered terms of four years as provided in Secs. 4.5 and 4.6 of this Charter.

“Sec. 4.3. Election of mayor; term of office. The qualified voters of the entire Town elect the mayor. He shall be elected to a four-year term of office beginning with the regular municipal election in 1979.

“Sec. 4.4. The initial election for mayor and board of commissioners of the Town of Belwood shall be held at the time of municipal election in 1979. The Cleveland County Board of Elections shall conduct the election, and the

CHAPTER 1208 Session Laws—1977

election and run-off election method of election shall be used. The board of elections shall determine the eligible voters of the Town pursuant to G.S. 163-288.2. The filing fee for this election shall be five dollars (\$5.00).

"Sec. 4.5. In the 1979 regular municipal election for the board of commissioners, the two candidates receiving the highest number of votes and a majority as determined by G.S. 163-293 shall be elected to four-year terms of office, and two candidates receiving the next highest number of votes and a majority of votes shall be elected to two-year terms of office.

"Sec. 4.6. After the 1979 election, all persons elected to the board of commissioners shall be elected to four-year terms of office.

"CHAPTER V.

"ADMINISTRATION.

"Sec. 5.1. Town to operate under mayor-council plan. The Town of Belwood operates under the mayor-council plan as provided in G.S. Chapter 160A, Article 7, Part 3."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1561

CHAPTER 1209

AN ACT TO INCORPORATE THE TOWN OF MOORESBORO IN CLEVELAND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The Town of Mooresboro, as described in the charter enacted by Section 2 of this act, is hereby incorporated.

Sec. 2. The Charter of the Town of Mooresboro reads as follows:

"THE CHARTER OF THE TOWN OF MOORESBORO.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Sec. 1.1. Incorporation and corporate powers. The inhabitants of the Town of Mooresboro are a body corporate and politic under the name of the 'Town of Mooresboro'. Under that name the Town shall have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Sec. 2.1. Town boundaries. Unless and until modified in accordance with law, the boundaries of the Town of Mooresboro are a circle with a radius of three-fourths (3/4) mile with its center point located at the center of the intersection of public highways 1167 and 1168 in the Town of Mooresboro.

"CHAPTER III.

"GOVERNING BODY.

"Sec. 3.1. Structure of governing body; number of members. The governing body of the Town of Mooresboro shall be a board of commissioners, composed of five members. There shall be a mayor who shall have the powers conferred upon mayors as provided in Chapter 160A of the General Statutes.

"Sec. 3.2. Temporary officers. Until the initial election provided for by Sec. 4.4 of this Charter, B. A. Marshall is hereby appointed mayor. Vicky Lucas,

Betty Bridges, Moses Johnson, John Z. McBrayer, and David Morrison are hereby appointed members of the Board of Commissioners of the Town of Mooresboro, and they shall possess and may exercise the powers granted to the board of commissioners until their successors are elected and qualified pursuant to this Charter.

"CHAPTER IV.

"ELECTIONS.

"Sec. 4.1. Conduct of Town elections. Town officers shall be elected on a nonpartisan basis and the results determined by a majority of votes cast, with a run-off election if necessary, as provided by G.S. 163-279(a)(4) and G.S. 163-293. Elections shall be conducted as provided in Articles 23 and 24 of Chapter 163 of the General Statutes.

"Sec. 4.2. Manner of election of board; term of office. The qualified voters of the entire Town shall elect the members of the board. Members shall be elected for staggered terms of four years as provided in Secs. 4.5 and 4.6 of this Charter.

"Sec. 4.3. Election of mayor; term of office. The qualified voters of the entire Town elect the mayor. He shall be elected to a four-year term of office beginning with the first regular municipal election in 1979.

"Sec. 4.4. The initial election for mayor and board of commissioners of the Town of Mooresboro shall be held at the time of municipal elections in 1979. The Cleveland County Board of Elections shall conduct the election, and the election and run-off election method of election shall be used. The board of elections shall determine the eligible voters of the Town pursuant to G.S. 163-288.2. The filing fee for this election shall be five dollars (\$5.00).

"Sec. 4.5. In the 1979 regular municipal election for the board of commissioners, the three candidates receiving the highest number of votes and a majority as determined by G.S. 163-293 shall be elected to four-year terms of office, and two candidates receiving the next highest number of votes and a majority of votes shall be elected to two-year terms of office.

"Sec. 4.6. After the 1979 election, all persons elected to the board of commissioners shall be elected to four-year terms of office.

"CHAPTER V.

"ADMINISTRATION.

"Sec. 5.1. Town to operate under mayor-council plan. The Town of Mooresboro shall operate under the mayor-council plan as provided in G.S. Chapter 160A, Article 7, Part 3."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

CHAPTER 1210 Session Laws—1977

H. B. 1564 CHAPTER 1210

AN ACT TO AMEND THE CHARTER OF THE CITY OF WILMINGTON.

The General Assembly of North Carolina enacts:

Section 1. Article III, Section 3.1 of Session Laws 1977, Chapter 495, is rewritten to read:

“Sec. 3.1. Composition of city council. The City council shall consist of seven members who shall be elected from the city at large in the manner provided in Article IV. The Mayor shall be one of these seven members.”

Sec. 2. Article III, Section 3.4(a) of Session Laws 1977, Chapter 495, is rewritten to read:

“(a) Preside at all meetings of the city council.”

Sec. 3. Article XIV of Session Laws 1977, Chapter 495, is amended by adding a new section to read:

“Sec. 14.2. Authority to issue revenue bonds. The city is authorized to issue revenue bonds under and pursuant to the provisions of G.S. 159-45 through G.S. 159-182, to pay all or any part of the cost of any acquisition, construction, improvement, enlargement, extension of equipment of any property or properties pursuant to Section 14.1.”

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1592 CHAPTER 1211

AN ACT TO ALLOW HUNTING OF FOXES WITH DOGS AT NIGHT IN CERTAIN COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-104 is amended by adding the following sentence after the second sentence:

“Notwithstanding the previous sentence, foxes may be hunted with dogs, at any time day or night in the following counties: Alamance, Alexander, Alleghany, Anson, Ashe, Avery, Bertie, Buncombe, Burke, Cabarrus, Caldwell, Camden, Carteret, Catawba, Cherokee, Chowan, Clay, Cleveland, Craven, Currituck, Davidson, Davie, Edgecombe, Forsyth, Franklin, Gaston, Graham, Guilford, Harnett, Haywood, Henderson, Iredell, Jackson, Johnston, Jones, Lenoir, Lincoln, Macon, Madison, Martin, McDowell, Mecklenburg, Mitchell, Montgomery, Moore, Nash, Onslow, Pamlico, Pasquotank, Perquimans, Polk, Randolph, Rowan, Rutherford, Sampson, Stanly, Stokes, Surry, Swain, Transylvania, Tyrrell, Union, Vance, Warren, Washington, Watauga, Wayne, Wilkes, Wilson, Yadkin and Yancey.”

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1610

CHAPTER 1212

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF STANTONSBURG, NORTH CAROLINA, AND TO REPEAL PRIOR CHARTER ACTS.

The General Assembly of North Carolina enacts:

Section 1. The Charter of the Town of Stantonburg, Wilson County, North Carolina, is hereby revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF STANTONSBURG, NORTH CAROLINA.

"CHAPTER I.

"ARTICLE I.

"INCORPORATION AND CORPORATE POWERS.

"Sec. 1-1. *Incorporation and general powers.* The inhabitants of the town of Stantonburg are a body corporate and politic under the name of the 'Town of Stantonburg'. Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"ARTICLE II.

"CORPORATE BOUNDARIES.

"Sec. 2-1. *Town boundaries.* Until modified in accordance with law, the boundaries of the Town of Stantonburg are as follows:

BEGINNING at an iron stake, in the Easterly right of way of S.R. #1682, said stake being South 34 deg. 07 min. 12 sec. East 1414.58 feet from a concrete monument, designated Sara-comm. X=2,350,046.894 Y=677,195.515 on the North Carolina Grid System, thence from said point of beginning along the Easterly right of way of S.R. #1682 South 31 deg. 58 min. 02 sec. East 234.28 feet to an iron stake, cornering, thence South 58 deg. 01 min. 58 sec. West 230.00 feet to an iron stake, cornering, thence North 31 deg. 58 min. 02 sec. West 290.80 feet to an iron stake, cornering, thence South 71 deg. 50 min. 25 sec. West 2682.80 feet to a concrete monument on the Easterly bank of Contentnea Creek, cornering, thence along the Easterly bank of Contentnea Creek North 14 deg. 06 min. 46 sec. West 185.48 feet, North 34 deg. 42 min. 36 sec. West 509.94 feet, North 46 deg. 00 min. 24 sec. West 178.32 feet, North 38 deg. 41 min. 56 sec. West 271.81 feet, North 33 deg. 41 min. 34 sec. West 213.99 feet and North 35 deg. 21 min. 00 sec. West 83.28 feet to a concrete monument, cornering, thence North 49 deg. 56 min. 07 sec. East 1638.27 feet to an iron stake in Black Creek Road, cornering, thence along Black Creek Road North 32 deg. 36 min. 27 sec. West 361.95 feet to an iron stake, cornering, thence North 56 deg. 43 min. 33 sec. East 891.40 feet to an iron stake, in Thompson Avenue, cornering, thence along Thompson Avenue North 31 deg. 46 min. 18 sec. West 451.26 feet to a concrete monument, cornering, thence North 76 deg. 46 min. 18 sec. East 1037.50 feet to a concrete monument, cornering, thence North 51 deg. 51 min. 08 sec. East 1700.00 feet to a concrete monument, cornering, thence South 29 deg. 55 min. 33 sec. East 2400.00 feet to an iron stake, in the center of N. C. Highway #222, cornering, thence along the center of N. C. Highway #222 North 75 deg. 01 min. 04 sec. East 1.39 feet to a point, cornering, thence North 14 deg. 58 min. 56 sec. West 180.00 feet to an iron stake, cornering, thence North 75 deg. 01 min. 04 sec. East 150.00 feet to an iron stake, cornering, thence South 14

CHAPTER 1212 Session Laws—1977

deg. 58 min. 56 sec. East 180.00 feet to a point in the center of N. C. Highway #222, cornering, thence along the center of N. C. Highway #222 North 75 deg. 01 min. 04 sec. East 510.27 feet, North 74 deg. 48 min. 04 sec. East 57.11 feet, North 74 deg. 17 min. 04 sec. East 94.97 feet and North 71 deg. 37 min. 04 sec. East 410.00 feet to an iron stake, cornering, thence South 18 deg. 22 min. 56 sec. East 636.65 feet to a point, cornering, thence South 1 deg. 01 min. 56 sec. East 190.34 feet to a point, cornering, thence North 88 deg. 58 min. 04 sec. East 170.00 feet to a point, cornering, thence South 1 deg. 01 min. 56 sec. East 360.00 feet to a point, cornering, thence South 88 deg. 58 min. 04 sec. West 1020.00 feet to an iron stake, cornering, thence South 65 deg. 27 min. 00 sec. West 1726.46 feet to a p.k. nail in the center of the Norfolk-Southern Railroad, cornering, thence South 71 deg. 50 min. 25 sec. West 527.12 feet to the point of beginning, containing 330.245 acres.

“ARTICLE III.

“GOVERNING BODY.

“Sec. 3-1. *Structure of governing body; number of members.* The governing body of the Town of Stantonburg is the board of commissioners, which has five members, and the mayor.

“Sec. 3-2. *Manner of election of board.* The qualified voters of the entire town elect the members of the board.

“Sec. 3-3. *Term of office of members of the board.* At the 1979 regular municipal election, all five members of the board of commissioners shall be elected. The two candidates receiving the highest number of votes shall be elected for four-year terms and the three candidates receiving the next highest number of votes shall be elected for two-year terms. Thereafter, all members of the board are elected to four-year terms. In the 1981 regular municipal election and each fourth year thereafter, three members of the board shall be elected to four-year terms. In the 1983 regular municipal election and each fourth year thereafter, two members of the board shall be elected to four-year terms.

“Sec. 3-4. *Manner of election of mayor.* The qualified voters of the entire town elect the mayor.

“Sec. 3-5. *Term of office of mayor.* At the 1979 regular municipal election and each fourth year thereafter, the mayor shall be elected to a four-year term of office.

“ARTICLE IV.

“ELECTIONS.

“Sec. 4-1. *Conduct of town elections.* Town officers shall be elected on a nonpartisan basis and the results determined by plurality, as provided by N. C. General Statutes 163-292.

“ARTICLE V.

“ADMINISTRATION.

“Sec. 5-1. *Town to operate under mayor-council plan.* The Town of Stantonburg operates under the mayor-council plan as provided in North Carolina General Statutes 160A, Article 7, Part 3.”

Sec. 2. The purpose of this act is to revise the Charter of the Town of Stantonburg and to consolidate herein certain acts concerning the property, affairs, and government of the town. It is intended to continue without interruption those provisions of prior acts which are consolidated in this act, so that all rights and liabilities that have accrued are preserved and may be enforced.

Sec. 3. The following acts or portions of acts having served the purposes for which enacted or having been consolidated into this act, are hereby repealed:

Chapter 60, Private Laws of North Carolina, 1817, an act to incorporate the Town of Stantonsburg in the County of Edgecombe.

Chapter 144, Private Laws of North Carolina, 1827-28, an act to appoint additional commissioners for the Town of Stantonsburg in the County of Edgecombe.

Chapter 133, Private Laws of North Carolina, 1835, an act to amend an act, entitled "An Act to incorporate the Town of Stantonsburg, in the County of Edgecombe".

Chapter 69, Private Laws of North Carolina, 1872-73, an act to incorporate the Town of Stantonsburg, in Wilson County.

Chapter 142, Private Laws of 1874-75, an act to amend Chapter 60-9, Private Laws of 1872 and 1873.

Chapter 173, Private Laws of North Carolina, 1909, an act to incorporate the Town of Stantonsburg, in the County of Wilson.

Chapter 205, Private Laws of North Carolina, 1917, an act to amend Chapter 173 of the Private Laws of 1909, relative to the Town of Stantonsburg, in the County of Wilson.

Chapter 642, Private Laws of North Carolina, 1917, an act to authorize the Board of Commissioners of the Town of Stantonsburg to issue bonds in the sum of ten thousand dollars (\$10,000) for the construction and maintenance of a water and sewerage system; to issue bonds in the sum of ten thousand dollars (\$10,000) for street improvements; and to issue bonds in the sum of five thousand dollars (\$5,000) for the improvement and maintenance of an electric light plant in said town.

Chapter 57, Private Laws of North Carolina, 1921, an act authorizing the Town of Stantonsburg, in Wilson County, to issue bonds.

Chapter 1061, 1945 Session Laws, an act to amend the Charter of the Town of Stantonsburg, North Carolina, so as to provide for the general election of elective municipal officials, and give the mayor's court jurisdiction within a radius of one mile from the corporate limits.

Chapter 639, 1951 Session Laws, an act to extend the corporate limits of the Town of Stantonsburg, in Wilson County.

Chapter 148, 1955 Session Laws, an act providing for the appointment of a clerk for the mayor's court of the Town of Stantonsburg.

Chapter 1135, 1957 Session Laws, an act to amend Chapter 1061 of the Session Laws of 1945 relating to elections in the Town of Stantonsburg, in Wilson County.

Sec. 4. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interest (whether public or private):

(a) now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act;

(b) derived from, or which might be sustained or preserved in reliance upon, action heretofore taken (including the adoption of ordinances or resolutions) pursuant to or within the scope of any provision of law repealed by this act.

CHAPTER 1212 Session Laws—1977

Sec. 5. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(a) the repeal herein of any act repealing such law, or

(b) any provision of this act that disclaims an intention to repeal or effect enumerated or designated laws.

Sec. 6. (a) All existing ordinances and resolutions of the Town of Stantonburg, and all existing rules or regulations of departments or agencies of the Town of Stantonburg, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified, or amended.

(b) No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Stantonburg or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

Sec. 7. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 8. All laws or clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1619 CHAPTER 1213

AN ACT TO AMEND THE STATE PERSONNEL ACT WITH RESPECT TO MERIT SALARY INCREMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 126-7 is amended by rewriting the caption to read:

“Performance salary increases for State employees.”

Sec. 2. G.S. 126-7 is amended by rewriting the second sentence to read:

“Each employee whose salary is at or below the third step of the salary range established for the class to which the position is assigned shall be granted a salary increase in an amount corresponding to the increments between steps of the applicable salary range at least once each year if the individual’s performance merits the increase.”

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1623

CHAPTER 1214

AN ACT TO REQUIRE THE LICENSING OF AMBULATORY SURGICAL FACILITIES, SO AS TO IMPLEMENT THE RECOMMENDATIONS OF THE LEGISLATIVE COMMISSION ON MEDICAL COST CONTAINMENT.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes of North Carolina are amended by adding a new Chapter, 131B, to read as follows:

"CHAPTER 131B.

"Licensing of Ambulatory Surgical Facilities.

"§ 131B-1. *Definitions.*—As used in this Chapter, unless the context requires otherwise, the following terms have the meanings specified:

(1) 'Ambulatory Surgical Facility' means a public or private facility, not a part of a hospital, which provides surgical treatment to patients not requiring hospitalization. Such term does not include the offices of private physicians or dentists, whether for individual or group practice, unless they elect to apply for licensing.

(2) 'Department' means the North Carolina Department of Human Resources.

(3) 'Person' means an individual; a trust or estate; a partnership; a corporation, including associations, joint stock companies, and insurance companies; the State, or a political subdivision or instrumentality of the State.

"§ 131B-2. *Purpose.*—The purpose of this Chapter is to provide for the development, establishment and enforcement of basic standards:

(a) for the care and treatment of individuals in ambulatory surgical facilities, and

(b) for the maintenance and operation of ambulatory surgical facilities so as to ensure safe and adequate treatment of such individuals in ambulatory surgical facilities.

"§ 131B-3. *License requirement.*—(a) No person shall operate an ambulatory surgical facility without a license obtained from the department.

(b) Applications shall be available from the department and each application filed with the department shall contain all necessary and reasonable information that the department may by rule require. A one-year license shall be granted to the applicant upon a determination by the department that the applicant has complied with the provisions of this Chapter and the rules, regulations, or standards promulgated by the department under this Chapter.

(c) A license to operate an ambulatory surgical facility shall be annually renewed upon the filing and departmental approval of a renewal application. The renewal application shall be available from the department and shall contain all necessary and reasonable information that the department may by rule require.

(d) Each license shall be issued only for the premises and persons named in the application and shall not be transferable or assignable except with the written approval of the department.

(e) Licenses shall be posted in a conspicuous place on the licensed premises.

"§ 131B-4. *Denial, suspension, or revocation of license.*—(a) Subject to subsection (b), the department is empowered to deny a new or renewal application for a license, and to suspend or revoke an existing license upon a

CHAPTER 1214 Session Laws—1977

determination that there has been a substantial failure to comply with the provisions of this Chapter or the rules, regulations or standards promulgated under this Chapter.

(b) The provisions of Chapter 150A of the General Statutes shall govern all administrative action and judicial review in the cases where the department has taken the action described in subsection (a).

“§ 131B-5. *Rules and regulations.*—The Medical Care Commission is empowered to adopt, amend and promulgate all necessary rules, regulations and standards as may be designed to further the accomplishment of this Chapter. These rules, regulations or standards shall be no stricter than those issued by the Medical Care Commission under G.S. 131-126.7 of the Hospital Licensing Act. The Medical Care Commission shall adopt its rules, regulations and standards within 30 days of the effective date of this act.

“§ 131B-6. *Enforcement.*—The department shall enforce the rules, regulations and standards adopted, amended or promulgated by the Medical Care Commission with respect to ambulatory surgical facilities.

“§ 131B-7. *Inspections.*—The department shall make or cause to be made such inspections of ambulatory surgical facilities as it deems necessary. The department is empowered to delegate to a State officer, agent, board, bureau or division of State government the authority to make such inspections according to the rules, regulations and standards promulgated by the department. The department may revoke such delegated authority in its discretion.

“§ 131B-8. *Penalties.*—A person who owns (in whole or in part) or operates an ambulatory surgical facility without a license is guilty of a misdemeanor, and upon conviction will be subject to a fine of not more than fifty dollars (\$50.00) for the first offense and not more than five hundred dollars (\$500.00) for each subsequent offense. Each day of continuing violation after conviction is considered a separate offense.

“§ 131B-9. *Injunctive relief.*—The department may commence an action in the name of the State for an injunction or other process against any person to prevent the operation of an ambulatory surgical facility without a license. Such action shall be brought in the Superior Court of Wake County.”

Sec. 2. Section 3 of Session Laws 1977 Chapter 712 is amended by adding at the end of that section the following:

“G.S. Chapter 131B, entitled ‘Licensing of Ambulatory Surgical Facilities’.”

Sec. 3. This act is effective 90 days after ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 931

CHAPTER 1215

AN ACT TO AMEND G.S. 105-446.3 TO PROVIDE MOTOR FUEL TAX REFUNDS FOR PRIVATE NONPROFIT TRANSPORTATION SERVICES AND TAXICABS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-446.3, as it appears in the 1975 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, is amended by rewriting the catch line to read as follows:

“§ 105-446.3. *Refund of taxes paid on motor fuels used in operation of motor*

buses transporting fare-paying passengers in a city transit system, in operation of a taxicab transporting fare-paying passengers, and in operation of private nonprofit transportation services."

Sec. 2. G.S. 105-446.3(a), as it appears in the 1975 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, is amended by striking out the first sentence of the subsection and substituting therefor the following:

"Any person, association, firm or corporation, who shall purchase any motor fuels, as defined in this Article, for the purpose of use, and the same is actually used, in the operation of motor buses transporting fare-paying passengers in connection with a city transit system or in the operation of a taxicab transporting fare-paying passengers, both as hereinafter defined in subsection (b) of this section, or in the operation, by private nonprofit organizations, of motor vehicles transporting passengers under contract with or at the express designation of units of local government (such transportation above and hereinafter referred to as private nonprofit transportation services) shall be entitled to be reimbursed at the rate of eight cents (8¢) per gallon of tax levied by this Article upon filing with the Secretary of Revenue an application upon the oath or affirmation of the applicant or his agent showing the number of gallons of motor fuel so purchased and used."

Sec. 3. G.S. 105-446.3(b), as it appears in 1972 Replacement Volume 2D of the General Statutes, is amended by striking out all of the last sentence which begins on line 12 of the subsection and by substituting therefor a new sentence to read as follows:

"For the purposes of this section the term 'taxicab' shall mean a taxicab as defined in G.S. 20-87(3); provided, however, that a city transit system as defined herein shall not include limousine operations."

Sec. 4. G.S. 105-446.3(d), as it appears in the 1975 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, is amended after the words "operation of a city transit system" by inserting the following:

"or for the operation of a taxicab transporting fare-paying passengers or for private nonprofit transportation services".

Sec. 5. G.S. 105-446.3(e), as it appears in the 1975 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, is rewritten to read as follows:

"(e) If the Secretary of Revenue shall be satisfied that the applicant for any refund authorized by this section has collected or sought to collect any refund of tax or taxes on fuels not used in the operation of a city transit system or in the operation of a taxicab transporting fare-paying passengers or for private nonprofit transportation services, he shall issue to such applicant notice to show cause why such application should not be disallowed, which notice shall state a time and place of hearing upon said notice. If upon such hearing the secretary shall find as a fact that such applicant has collected or sought to collect any refund on fuels which have not been used in the operation of a city transit system or in the operation of a taxicab transporting fare-paying passengers or for private nonprofit transportation services, he shall disallow the application in its entirety and the applicant shall be required to repay all tax or taxes which have been refunded to him on said application."

CHAPTER 1215 Session Laws—1977

Sec. 6. For the fiscal year 1978-1979, reimbursements provided by this act shall not exceed the total aggregate amount of three hundred thousand dollars (\$300,000).

Sec. 7. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1201

CHAPTER 1216

AN ACT TO REWRITE THE SOLID WASTE MANAGEMENT ACT.

The General Assembly of North Carolina enacts:

Section 1. Article 13B of Chapter 130 of the General Statutes is hereby rewritten to read as follows:

“ARTICLE 13B.

“Solid Waste Management.

“§ 130-166.16. *Definitions.*—As used in this Article, the term:

(1) ‘Disposal’ means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

(2) ‘Federal act’ means the Resource Conservation and Recovery Act of 1976, P.L. 94-580, as amended.

(3) ‘Garbage’ means all putrescible wastes, including animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human waste.

(4) ‘Hazardous waste’, as determined by the commission, means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

(a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

(5) ‘Hazardous waste generation’ means the act or process of producing hazardous waste.

(6) ‘Hazardous waste management’ means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.

(7) ‘Hazardous waste facility’ means a facility for the storage, collection, processing, treatment, recycling, recovery or disposal of hazardous waste.

(8) ‘Manifest’ means the form used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(9) ‘Natural resources’ means all materials which have useful physical or chemical properties which exist, unused, in nature.

(10) ‘Open dump’ means a solid waste disposal site which is not a sanitary landfill.

(10a) ‘Person’ means an individual, corporation, company, association, partnership, unit of local government, or other legal entity.

(11) 'Recycling' means the process by which recovered resources are transformed into new products in such a manner that the original products lose their identity.

(12) 'Refuse' means all non-putrescible waste.

(13) 'Resource recovery' means the process of obtaining material or energy resources from discarded solid waste which no longer has any useful life in its present form and preparing such solid waste for recycling.

(14) 'Sanitary landfill' means a facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills promulgated under this Article.

(15) 'Sludge' means any solid, semisolid or liquid waste generated from a municipal, commercial, institutional, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effects.

(16) 'Solid waste' means any hazardous or nonhazardous garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, institutional, commercial, and agricultural operations, and from community activities. Such term does not include:

a. fowl and animal fecal waste;

b. solid or dissolved material in

1. domestic sewage and sludges generated by the treatment thereof in sanitary sewage disposal systems which have a design capacity of more than 3000 gallons or which discharge effluents to the surface waters;

2. irrigation return flows; and

3. wastewater discharges and the sludges incidental thereto and generated by the treatment thereof which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Control Act, as amended (PL 92-500), and permits granted under G.S. 143-215.1 by the Environmental Management Commission; or

c. oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the North Carolina General Statutes;

d. any radioactive material as defined by the North Carolina Radiation Protection Act, G.S. 104E-1 through G.S. 104E-23; or

e. mining refuse covered by the North Carolina Mining Act G.S. 74-46 through G.S. 74-68 and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-290).

(17) 'Solid waste disposal site' means any place at which solid wastes are disposed of by incineration, sanitary landfill or any other method.

(18) 'Solid waste generation' means the act or process of producing solid waste.

(19) 'Solid waste management' means purposeful, systematic control of the generation, storage, collection, transport, separation, treatment, processing, recycling, recovery and disposal of solid waste.

(20) 'Solid waste management facility' means land, personnel and equipment used in the management of solid waste.

(21) 'Storage' means the containment of solid waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal.

(22) 'Treatment' means any method, technique, or process, including neutralization, designed to change the physical, chemical or biological character or composition of any solid waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of solid waste so as to render it nonhazardous.

"§ 130-166.17. *Solid waste unit in Department of Human Resources.*—For the purpose of promoting and preserving an environment that is conducive to public health and welfare, and preventing the creation of nuisances and the depletion of our natural resources, the Department of Human Resources shall maintain an appropriate administrative unit to promote sanitary processing, treatment, disposal, and overall management of solid waste and the greatest possible recycling and recovery of resources, and the department shall employ and retain such qualified personnel as may be necessary. To the extent necessary, practicable and appropriate, the department shall consult and coordinate with other State agencies, units of local government, the federal government, industries and individuals in the promotion of sanitary processing, treatment, disposal and overall management of solid waste and the recycling and recovery of resources.

"§ 130-166.18. *Solid waste management program.*—(a) The Department of Human Resources is authorized and directed to engage in research, conduct investigations and surveys, make inspections, and establish a statewide solid waste management program. In establishing a program, the department shall have authority to:

- (1) develop a comprehensive program for implementation of safe and sanitary practices for management of solid waste;
- (2) advise, consult, cooperate, and contract with other State agencies, units of local government, the federal government, industries and individuals in the formulation and carrying out of a solid waste management program;
- (3) develop and promulgate standards for qualification as a 'recycling or resource recovering facility' or as 'recycling or resource recovering equipment' for the purpose of special tax classifications or treatments, and to certify as qualifying those applicants which meet the established standards. The standards shall be so developed as to qualify only those facilities and equipment exclusively used in the actual resource recovering or recycling process and shall exclude any incidental or supportive facilities and equipment; and
- (4) develop a permit system governing the establishment and operation of solid waste management facilities. In connection with the above, no such permit shall be granted for a solid waste management facility having discharges which are point sources, until the Department of Human Resources has referred the complete plans and specifications to the Environmental Management Commission and has received advice in writing that the same are approved in accordance with the provisions of G.S. 143-215.1. In any case where the Department of Human Resources denies a permit for a solid waste management facility, it shall state in writing the reason for such denial and shall also state its

estimate of the changes in the applicant's proposed activities or plans which will be required in order that the applicant may obtain a permit.

- (5) delegate authority and responsibility to local governments, including counties, to perform all or any portion of a solid waste management program within the jurisdictional area of the local government; provided, that no authority over or control of the operations or properties of one local government shall be delegated to any other local government.

(b) The commission shall promulgate and the department shall enforce rules for the establishment, location, operation, maintenance, use and discontinuance of solid waste management sites and facilities. Such rules shall be designed to accomplish the maintenance of safe and sanitary conditions in and around solid waste management sites and facilities, and shall be based on recognized public health practices and procedures, sanitary engineering research and studies, and current technological development in equipment and methods. Such rules shall not apply to the management of solid waste accumulated by an individual or individual family or household unit and disposed of on his own property.

(c) The commission shall promulgate and the department shall enforce rules concerning the management of hazardous waste. Such rules shall provide for:

- (1) establishing criteria for hazardous wastes, identifying the characteristics of hazardous waste and listing particular hazardous wastes;
- (2) record-keeping and reporting by generators and transporters of hazardous waste and owners and operators of hazardous waste facilities;
- (3) proper labeling of hazardous waste containers;
- (4) use of appropriate containers for hazardous waste;
- (5) a manifest system to assure that all hazardous waste is designated for treatment, storage or disposal at a hazardous waste facility to which a permit has been issued;
- (6) proper transportation of hazardous waste;
- (7) treatment, storage and disposal standards of performance and techniques to be used by hazardous waste facilities;
- (8) location, design, ownership and construction of hazardous waste facilities;
- (9) plans to minimize unanticipated damage from any treatment, storage or disposal of hazardous waste; and a plan or plans providing for the establishment and/or operation of one or more hazardous waste facilities in the absence of adequate approved hazardous waste facilities established or operated by any person within the State;
- (10) proper maintenance and operation of hazardous waste facilities, including requirements for ownership (including ownership by any person or the State), financial responsibility, training of personnel, continuity of operation and procedures for establishing and maintaining hazardous waste facilities;
- (11) monitoring by owners or operators of hazardous waste facilities;
- (12) inspection or copying of records required to be kept;
- (13) obtaining and analyzing hazardous waste samples and samples of hazardous waste containers and labels from generators and transporters and from owners and operators of hazardous waste facilities;

CHAPTER 1216 Session Laws—1977

(14) a permit system governing the establishment and operation of hazardous waste facilities; and

(15) such additional requirements as may be necessary for the effective management of hazardous waste.

(d) The commission shall have the authority to promulgate and the department shall have the authority to enforce rules where appropriate for public participation in the development, revision, implementation and enforcement of any regulation, guideline, information or program under this Article.

(e) The rules promulgated under this section shall be no less stringent than the most recent regulations promulgated under the federal act and may be amended from time to time as necessary.

“§ 130-166.19. *Receipt and distribution of funds.*—The department may accept loans and grants from the federal government and other sources for carrying out the purposes of this Article, and shall adopt reasonable policies governing the administration and distribution of such funds to units of local government, other State agencies, and private agencies, institutions or individuals for studies, investigations, demonstrations, surveys, planning, training, and construction or establishment of solid waste management facilities.

“§ 130-166.20. *Single agency designation.*—The department is hereby designated as the single State agency for purposes of the federal act or any State or federal legislation which has been or may be enacted to promote the proper management of solid waste.

“§ 130-166.20A. *Effect on laws applicable to water pollution control.*—This Article shall not be construed as amending, repealing or in any manner abridging or interfering with those sections of the General Statutes of North Carolina relative to the control of water pollution as now administered by the Environmental Management Commission nor shall the provisions of this Article be construed as being applicable to or in any way affecting the authority of the Environmental Management Commission to control the discharges of wastes to the waters of the State as provided in Articles 21 and 21A, Chapter 143, of the General Statutes of North Carolina.

“§ 130-166.21. *Recordation of sanitary landfill site permits.*—(a) Whenever the Department of Human Resources approves a sanitary landfill site, the owner of the landfill site shall be granted both an original permit and a copy certified by the secretary or his authorized representative. The permit shall include a legal description of the landfill site which would be sufficient as a description in an instrument of conveyance.

(b) Any person granted a sanitary landfill site permit shall file the certified copy of such permit in the register of deeds' office in the county or counties in which the landfill is located.

(c) The register of deeds shall record the certified copy and index it in the grantor index under the name of the owner of the landfill site.

(d) The permit shall not be effective unless the certified copy is filed as required under subsection (b).

“§ 130-166.21A. *Sludge deposits at sanitary landfills.*—Sludges generated by the treatment of wastewater discharges which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Control Act, as amended (PL 92-500), or permits generated under G.S. 143-215.1 by the

Environmental Management Commission shall not be deposited in or on a sanitary landfill permitted hereunder unless in compliance with the rules concerning solid waste promulgated under this Article.

“§ 130-166.21B. *Imminent hazard.*—(a) An imminent hazard shall exist when in the judgement of the secretary, as supported by findings of fact made by the secretary, a condition exists in the State concerning solid waste which poses a serious, immediate risk to public health.

(b) In order to eliminate an imminent hazard, the secretary may, without notice or hearing, issue an order requiring that immediate action be taken to protect the public health. Such order may be directed to a generator or transporter of solid waste or to the owner or operator of a solid waste management facility.

“§ 130-166.21C. *Information received pursuant to this Article.*—(a) For the purposes of this Article, upon a showing satisfactory to the department or any authorized representative of the department by any person that records, reports or information or particular part thereof, to which the department or any authorized representative of the department has access under G.S. 130-204, would divulge information entitled to protection under subsection (b), the department shall consider such information or particular portion thereof confidential in accordance with the purposes of that subsection, except that such record, report, document or information may be disclosed to other officers, employees or authorized representatives of the department concerned with carrying out this act, or when relevant in any proceeding under this act.

(b) For the purposes of this Article, whoever being an officer or employee of the department publishes, divulges, discloses or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with the department or any authorized representative of the department which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided in subsection (a) shall be guilty of a misdemeanor and fined not more than five hundred dollars (\$500.00) or imprisoned not more than two years or both; and shall be removed from office or employment.

“§ 130-166.21D. *Construction.*—(a) This Article shall be interpreted as enabling the State to obtain federal financial assistance in carrying out its solid waste management program and to obtain the authority needed to assume primary enforcement responsibility for that portion of the solid waste management program concerning the management of hazardous waste.

(b) That portion of the solid waste management program concerning hazardous waste maintained by the State under this Article shall be no more comprehensive than the hazardous waste program prescribed under the federal act and that the rules, regulations and standards promulgated hereunder shall:

- (1) be no more stringent than the rules, regulations and standards concerning hazardous waste prescribed under the federal act; and

CHAPTER 1216 Session Laws—1977

- (2) not become effective prior to the effective date of the rules, regulations and standards concerning hazardous waste prescribed under the federal act.

Any rules, regulations, policy guidelines or opinions rendered under this bill, relating to Article 13B, shall be reviewed by the proper committees of the next regular session of the General Assembly."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1021

CHAPTER 1217

AN ACT TO SUPPLEMENT THE FEDERAL LABORATORY ANIMAL WELFARE ACT (P.L. 89-544) AS AMENDED, TO PROVIDE STANDARDS FOR THE CARE OF ANIMALS IN ANIMAL SHELTERS AND PET SHOPS, AND TO REGULATE DEALERS.

The General Assembly of North Carolina enacts:

Section 1. This act may be cited as the Animal Welfare Act.

Sec. 2. The purposes of this act are (1) to protect the owners of dogs and cats from the theft of such pets; (2) to prevent the sale or use of stolen pets; (3) to insure that animals, as items of commerce, are provided humane care and treatment by regulating the transportation, sale, purchase, housing, care, handling and treatment of such animals by persons or organizations engaged in transporting, buying, or selling them for such use; (4) to insure that animals confined in pet shops, kennels, animal shelters and auction markets are provided humane care and treatment; (5) to prohibit the sale, trade or adoption of those animals which show physical signs of infection, communicable disease, or congenital abnormalities, unless veterinary care is assured subsequent to sale, trade or adoption.

Sec. 3. There is hereby created within the Animal Health Division of the North Carolina Department of Agriculture, a new section thereof, to be known as the Animal Welfare Section of said division.

The Commissioner of Agriculture is hereby authorized to appoint a director of said section whose duties and authority shall be determined by the commissioner subject to the approval of the Board of Agriculture and subject to the provisions of this act.

Sec. 4. Definitions: For the purposes of this act, the following terms, when used in the act or the rules and regulations or orders made pursuant thereto, shall be construed respectively to mean:

(a) "Director" means the Director of the Animal Welfare Section of the Animal Health Division of the Department of Agriculture.

(b) "Person" means any individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity.

(c) "Animal shelter" means a facility which is used to house or contain animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection and humane treatment of animals.

(d) "Pet shop" means a person or establishment that acquires for the purposes of resale animals bred by others whether as owner, agent, or on

consignment, and that sells, trades or offers to sell or trade such animals to the general public at retail or wholesale.

(e) "Animal" means any domestic dog (*Canis familiaris*), domestic cat (*Felis domestica*).

(f) "Public auction" means any place or location where dogs or cats are sold at auction to the highest bidder regardless of whether such dogs or cats are offered as individuals, as a group, or by weight.

(g) "Commissioner" means the Commissioner of Agriculture of the State of North Carolina.

(h) "Dealer" means any person who sells, exchanges, or donates, or offers to sell, exchange, or donate animals to another dealer, pet shop, or research facility; provided, however, that an individual who breeds and raises on his own premises no more than the offspring of five canine or feline females per year, unless bred and raised specifically for research purposes shall not be considered to be a dealer for the purposes of this act.

(i) "Research facility" means any place, laboratory, or institution at which scientific tests, experiments, or investigations involving the use of living animals are carried out, conducted, or attempted.

(j) "Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage compartment or hutch.

(k) "Housing facility" means any room, building, or area used to contain a primary enclosure or enclosures.

(l) "Sanitize" means to make physically clean and to remove and destroy to a practical minimum, agents injurious to health.

(m) "Euthanasia" means the human destruction of an animal accomplished by a method that involves rapid unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent which causes painless loss of consciousness, and death during such loss of consciousness.

(n) "Ambient temperature" means the temperature surrounding the animal.

(o) "Adequate feed" means the provision at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. Such foodstuff shall be served in a sanitized receptacle, dish, or container.

(p) "Adequate water" means a constant access to a supply of clean, fresh, potable water provided in a sanitary manner or provided at suitable intervals for the species and not to exceed 24 hours at any interval.

Sec. 5. The Board of Agriculture is hereby authorized and empowered to make such reasonable rules and regulations with regard to animal welfare as may be necessary to carry out the objectives and the intent of this act. Such rules and regulations may include but are not limited to provisions relating to humane transportation to and from registered or licensed premises, records of purchase and sale, identification of animals handled, primary enclosures, housing facilities, sanitation, euthanasia, ambient temperatures, feeding, watering, and veterinary medical care. It may, after public hearing shall have been held and notification of such hearing having been given to all licensees, adopt in whole or in part those portions of the rules and regulations, promulgated by the Secretary of the United States Department of Agriculture

CHAPTER 1217 Session Laws—1977

pursuant to the provisions of the United States Public Law 89-544, commonly known as the Laboratory Animal Welfare Act, which are consistent with the intent and purpose of this act.

Sec. 6. For the enforcement of the provisions of this act, the director is authorized, subject to the approval of the commissioner to appoint employees as are necessary in order to carry out and enforce the provisions of this act, and to assign them interchangeably with other employees of the Animal Health Division. The director shall cause the investigation of all reports of violations of the provisions of this act, and the rules and regulations adopted pursuant to the provisions hereof; provided further that if any person shall deny the director or his representative admittance to his property, either person shall be entitled to secure from any superior court judge a court order granting such admittance.

Sec. 7. No person shall operate an animal shelter for more than one year subsequent to the effective date of this act unless a certificate of registration for such animal shelter shall have been granted by the director. Application for such certificate shall be made in the manner provided by the director. No fee shall be required for such application or certificate. Certificates of registration shall be valid for a period of one year or until suspended or revoked and may be renewed for like periods upon application in the manner provided.

Sec. 8. No person shall operate a pet shop as defined in this act for more than six months subsequent to the effective date of this act unless a license to operate such establishment shall have been granted by the director. Application for such license shall be made in the manner provided by the director. The license shall be for the fiscal year and the license fee shall be twenty-five dollars (\$25.00) for each license period or part thereof beginning with the first day of the fiscal year.

Sec. 9. No person shall operate a public auction or a boarding kennel as defined in this act for more than six months subsequent to the effective date of this act unless a license to operate such establishment shall have been granted by the director. Application for such license shall be made in the manner provided by the director. The license period shall be the fiscal year and the license fee shall be twenty-five dollars (\$25.00) for each license period or part thereof beginning with the first day of the fiscal year.

Sec. 10. No person shall be a dealer as defined in this act for more than six months after the effective date of this act unless a license to deal shall have been granted by the director to such person. Application for such license shall be in the manner provided by the director. The license period shall be the fiscal year and the license fee shall be twenty-five dollars (\$25.00) for each license period or part thereof, beginning with the first day of the fiscal year.

Sec. 11. The director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this act he determines that any one or more of the following grounds apply:

(a) material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this act;

(b) willful disregard or violation of this act or any regulations or rules issued pursuant thereto;

(c) failure to provide adequate housing facilities and/or primary enclosures for the purposes of this act, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this act or with the intent of the rules and regulations which may be promulgated pursuant to the authority of this act;

(d) allowing one's license under this act to be used by an unlicensed person;

(e) conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;

(f) making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;

(g) pursuing a continued course of misrepresentation of or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;

(h) failure to possess the necessary qualifications or to meet the requirements of this act for the issuance or holding of a certificate of registration or license.

The director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the director or his authorized representative.

Any person to whom a certificate of registration or a license is denied, suspended, or revoked by the director, may appeal such denial, suspension, or revocation by filing within five days in writing with the director a request for a public hearing before the Board of Agriculture or its designated hearing officer, and such hearing shall be held within 10 days and shall be conducted in accordance with the provisions of Section 13 of this act.

Any licensee whose license is revoked under the provisions of this act shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect.

Sec. 12. A license is not transferable. When there is a transfer of ownership, management, or operation of a business of a licensee hereunder, the new owner, manager, or operator, as the case may be, whether it be an individual, firm, partnership, corporation, or other entity shall have 10 days from such sale or transfer to secure a new license from the director to operate said business. A licensee shall promptly notify the director of any change in the name, address, management, or substantial control of his business or operation.

Sec. 13. Proceedings under this act shall be taken by the Board of Agriculture or its delegated hearing officer when accusation is made in writing

CHAPTER 1217 Session Laws—1977

and under oath. Upon receiving such accusation, the Board of Agriculture, or its hearing officer, shall serve notice by registered mail or personally of the time and place of the hearing, and a copy of the charges upon the accused at least 15 days before the date of the hearing. The Board of Agriculture, or its hearing officer, for sufficient cause in its discretion, may postpone or continue said hearing from time to time, or if after proper notice no appearance is made by the accused, the board or the hearing officer may enter judgment at the time of hearing as prescribed herein, either by suspending or revoking the license of the accused or dismissing the accusation. Both the Board of Agriculture, or hearing officer, and the accused may have the benefit of counsel and the right to cross-examine witnesses, to take depositions, and to compel attendance of witnesses as in cases by subpoena issued by the director under the seal of the Board of Agriculture, and in the name of the State of North Carolina. The testimony of all witnesses at any hearing before the Board of Agriculture, or hearing officer, shall be under oath or affirmation. The director is authorized to reimburse witnesses for their time and travel, and to award expert witness fees to witnesses so qualified. The record of all hearings and judgments shall be kept by the Secretary of the Board of Agriculture, and in the event of suspension or revocation of certificate of registration or license, the secretary shall within 10 days transmit a certified copy of said judgment to the clerk of the superior court of the county of the residence of the accused or his registered agent, and the clerk shall file said judgment in the judgment docket of said county.

Any person may appeal to the Superior Court of Wake County the denial of a certificate of registration or license, and any holder of a certificate of registration or licensee may appeal to the Superior Court of Wake County the failure to renew any certificate of registration or license or the revocation or suspension of the license issued under the provisions of this act, and such appeals shall be made pursuant to the provisions of Chapter 150A of the General Statutes.

Sec. 14. Operation of a pet shop, kennel, or public auction without a currently valid license shall constitute a misdemeanor subject to a penalty of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00), and each day of operation shall constitute a separate offense.

Sec. 15. Acting as a dealer in animals as defined in this act without a currently valid dealer's license shall constitute a misdemeanor subject to a penalty of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00), or imprisonment for a period not to exceed six months, or both fine and imprisonment. Continued illegal operation after conviction shall constitute a separate offense. Animals found in possession or custody of an unlicensed dealer shall be subject to immediate seizure and impoundment and upon conviction of such unlicensed dealer shall become subject to sale or euthanasia in the discretion of the director.

Sec. 16. Failure of any person licensed or registered under this act to adequately house, feed, and water animals in his possession or custody shall constitute a misdemeanor, and such person shall be subject to a fine of not less than five dollars (\$5.00) per animal or more than a total of one thousand dollars (\$1,000). Such animals shall be subject to seizure and impoundment and upon conviction may be sold or euthanized at the discretion of the director and such failure shall also constitute grounds for revocation of license after public hearing. The director is hereby authorized to disburse State funds in such

amount as in his discretion is necessary to provide for the welfare of the animals until either sold or euthanized and any fine levied in connection with this section shall be applied toward reimbursement of such State funds as the director shall have expended.

Sec. 17. Violation of any provision of this act which relates to the seizing, impoundment, and custody of an animal by a dog warden shall constitute a misdemeanor and the person convicted thereof shall be subject to a fine of not less than fifty dollars (\$50.00) and not more than one hundred dollars (\$100.00), and each animal handled in violation shall constitute a separate offense.

Sec. 18. This act shall not apply to a place or establishment which is operated under the immediate supervision of a duly licensed veterinarian as a hospital where animals are harbored, boarded, and cared for incidental to the treatment, prevention, or alleviation of disease processes during the routine practice of the profession of veterinary medicine. This act shall not apply to any dealer, pet shop, public auction, commercial kennel or research facility during the period such dealer or research facility is in the possession of a valid license or registration granted by the Secretary of Agriculture pursuant to the provisions of United States Public Law 89-544. This act shall not apply to any individual who occasionally boards an animal on a noncommercial basis, although such individual may receive nominal sums to cover the cost of such boarding.

Sec. 19. All license fees collected shall be used in enforcing and administering this act.

Sec. 20. If any provision of this act or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Sec. 21. Nothing in this act shall apply to those kennels or establishments operated primarily for the purpose of training hunting dogs.

Sec. 22. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 23. This act shall become effective January 1, 1979.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 680

CHAPTER 1218

AN ACT TO IMPOSE THE ONE PERCENT, EIGHTY DOLLAR MAXIMUM SALES AND USE TAX RATE UPON CERTAIN SALES OF MILL MACHINERY TO CONTRACTORS AND SUBCONTRACTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.4(1)h as the same appears in the 1975 Cumulative Supplement Volume 2D of the General Statutes is hereby rewritten to read as follows:

“h. Sales of mill machinery or mill machinery parts and accessories to manufacturing industries and plants, and sales to contractors and subcontractors purchasing mill machinery or mill machinery parts and accessories for use by them in the performance of contracts with manufacturing

CHAPTER 1218 Session Laws—1977

industries and plants, and sales to subcontractors purchasing mill machinery or mill machinery parts and accessories for use by them in the performance of contracts with general contractors who have contracts with manufacturing industries and plants.”

Sec. 2. This act shall become effective July 1, 1977.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 971 CHAPTER 1219

AN ACT TO MAKE SUPPLEMENTAL MODIFICATIONS TO CURRENT OPERATIONS APPROPRIATIONS FOR NORTH CAROLINA STATE GOVERNMENT FOR THE FISCAL YEAR 1978-79, AND TO MAKE OTHER CHANGES IN THE BUDGET OPERATION OF THE STATE.

The General Assembly of North Carolina enacts:

—SUPPLEMENTAL MODIFICATIONS/1978-79 BUDGET

Section 1. This act provides the text to make supplemental modifications to current operations appropriations for North Carolina State Government for the fiscal year 1978-79, and it makes other changes in the budget operation of the State. The majority of the 1978 legislation on the 1978-79 State Budget is in the 1978-79 Operating and Capital Budget Bill enacted by 1977 Session Laws Chapter 1136.

* * * * *

An outline of the provisions of the act follows this section. The outline shows the heading “—CONTENTS/INDEX—” and it lists by general category the descriptive captions for the various sections and groups of sections that make up the act.

—CONTENTS/INDEX—

[This outline is designed for reference only, and it in no way limits, defines, or prescribes the scope or application of the text of the act.]

—SUPPLEMENTAL MODIFICATIONS/1978-79 BUDGET

Section 1.

PART I.—SPECIAL PROVISIONS—AREA MENTAL HEALTH

—COMMUNITY MENTAL HEALTH CENTERS/INPATIENT SERVICES

Sec. 2.

—INPATIENT MENTAL HEALTH SERVICES/REPORT

Sec. 2.1.

PART II.—[deleted]

Sec. 3. [deleted]

PART III.—SPECIAL PROVISION—JUNIOR HIGH SCHOOLS

—TEACHER CONTACTS REDUCTIONS/GRADES 7, 8, AND 9

Sec. 4.

PART IV.—SPECIAL PROVISION—MEDICAL COST CONTAINMENT

—MEDICAID CLAIMS PROCESSING

Sec. 5.

—MEDICAID RULES/POWERS OF DEPARTMENT OF HUMAN RESOURCES

Sec. 6.

—

through

—
Sec. 28.

—MEDICAID SCHEDULES/COUNTY & STATE SHARES OF NON-FED.
COSTS

Sec. 29.

—AGED & FAMILY CARE/COUNTY & STATE SHARES OF COSTS

Sec. 29.1.

—COUNTY & STATE SHARES OF COSTS/REPORT

Sec. 30.

PART V.—SPECIAL PROVISIONS—VARIOUS GOVERNMENT
SERVICES

—N. C. APPELLATE DIVISION REPORTS TO CRIME CONTROL DEPT.

Sec. 31.

—UTILITIES COMMISSION/TRANSCRIPT FEES

Sec. 32.

—SECRETARY OF STATE/OPTION TO USE CERTIFIED MAIL

Sec. 33.

Sec. 34.

Sec. 35.

—EXTEND ISSUE TIME PERIOD/LOCAL GOVERNMENT BONDS

Sec. 36.

—BOARD OF EDUCATION/MAINTENANCE AND CUSTODIAL
SALARIES

Sec. 37.

—STATE EMPLOYEE INCENTIVE PAY/ELIGIBILITY AND AWARD
CHANGES

Sec. 38.

—D.O.T./LOANS AND GRANTS TO AIRPORTS NOT PUBLICLY
OWNED

Sec. 39.

Sec. 39.1.

Sec. 39.2.

—COMMUNITY COLLEGES/REPEAL UNDERENROLLMENT FUND
RECALL

Sec. 40.

—INDIGENT DEFENSE IN CAPITAL CASES/FUND LIMITATIONS

Sec. 41.

—N. C. SCHOOL OF SCIENCE & MATHEMATICS/BOARD OF
TRUSTEES

Sec. 42.

—JUDICIAL DEPARTMENT/CHILD SUPPORT PROGRAM

Sec. 43.

—SPLITTING JUDICIAL DISTRICT 27/EFFECTIVE DATE

Sec. 43.1.

Sec. 43.2.

Sec. 43.3.

—NAT. RESOURCES DEPT./FOREST DEVELOPMENT
APPROPRIATION

Sec. 43.4.

CHAPTER 1219 Session Laws—1977

- SICK PAY PROGRAM FOR STATE EMPLOYEES/STUDY
Sec. 43.5.
- AGRICULTURAL MEDICATIONS/EXEMPT FROM SALES TAX
Sec. 43.6.
- AUCTIONEERS COMMISSION/FEEES
Sec. 43.7.
- PART VI.—SPECIAL PROVISIONS—IMPROVE GOVERNMENT
OPERATIONS
- EVALUATION OF NEW PROGRAMS
Sec. 44.
- BUDGETING FEDERAL FUNDS
Sec. 45.
- ADVISORY BOARDS/EXECUTIVE DEPARTMENT CREATION
Sec. 46.
- STATE-OWNED OFFICE SPACE/RENTAL
Sec. 47.
- STATE OFFICE BLDG. ALTERATION & RENOVATION/A.B.C.
APPROVAL
Sec. 49.
- DATA PROCESSING/ANALYSIS BEFORE NEW EQUIPMENT
Sec. 50.
- RETIREMENT PAY IN ADDITION TO SALARY/STUDY
Sec. 51.
- DOBBS & ARCHDALE BUILDINGS ALTERATIONS/REDUCE DEPT.
BUDGETS
Sec. 53.
- NEW OFFICE EQUIPMENT/USE SURPLUS PROPERTY WHERE
AVAILABLE
Sec. 55.
- PART VII.—SPECIAL PROVISIONS—SUPPLEMENTAL ACT
- EFFECT OF MOST LIMITATIONS AND DIRECTIONS IN
TEXT/ONLY 78-79
Sec. 56.
- SEVERABILITY CLAUSE
Sec. 57.
- CAPTIONS NOT LIMIT TEXT/ONLY FOR REFERENCE
Sec. 58.
- EFFECTIVE DATE
Sec. 59.
- PART I.—SPECIAL PROVISIONS—AREA MENTAL HEALTH
- COMMUNITY MENTAL HEALTH CENTERS/INPATIENT
SERVICES

Sec. 2. Section 24 of the 1978-79 Operating and Capital Budget Bill (1977 Session Laws Chapter 1136) is rewritten to read as follows:

“Of the funds appropriated in Section 2 of this act, six million fifty thousand dollars (\$6,050,000) is to provide inpatient and other services delivered by area mental health programs. Of this amount, no more than three million nine

thousand seven hundred eighty-two dollars (\$3,009,782) shall be used as grant-in-aid to support special inpatient services for 1978-79. The balance shall be used for area match as authorized by General Statutes.

The grant-in-aid support is for 1978-79, and it is the intent of the General Assembly for these additional funds of six million fifty thousand dollars (\$6,050,000) be continued after 1978-79 as area match for services delivered by area mental health programs."

—INPATIENT MENTAL HEALTH SERVICES/REPORT

Sec. 2.1. The Mental Health Study Commission shall review current programs and funding for inpatient mental health services. The commission shall recommend to the 1979 Session of the General Assembly a method of allocating State funds for inpatient services in area mental health programs.

PART II.—[deleted]

Sec. 3. [deleted]

PART III.—SPECIAL PROVISION—JUNIOR HIGH SCHOOLS

—TEACHER CONTACTS REDUCTION/GRADES 7, 8, AND 9

Sec. 4. The funds appropriated in Section 2 of the 1978-79 Operating and Capital Budget Bill (1977 Session Laws Chapter 1136) to the State Board of Education include five million six hundred eighty-five thousand five hundred sixty-three dollars (\$5,685,563) to provide insofar as possible for a reduction in class size in schools containing grades 7, 8, and 9, or any combination therein, which are departmentalized. School administrative units currently having schools so organized are eligible to participate. It is the intent of this legislation that the teacher contacts in the above schools shall be reduced by an average of six students.

PART IV.—SPECIAL PROVISIONS—MEDICAL COST CONTAINMENT

—MEDICAID CLAIMS PROCESSING

Sec. 5. Section 4 of Chapter 123 of the 1975 Session Laws as amended by Section 1 of Chapter 537 of the 1977 Session Laws is amended by striking the words "and shall expire December 31, 1979".

—MEDICAID RULES/POWERS OF DEPARTMENT OF HUMAN RESOURCES

(G.S. citations refer to the 1978 Replacement Part I of G.S. Volume 3A and the 1978 Replacement to G.S. Volume 3C)

Sec. 6. G.S. 108-7 is amended by adding the following sentence at the end:

"Provided, however, county policies for the program of medical assistance shall be established in conformity with the rules and regulations of the Department of Human Resources."

Sec. 7. G.S. 108-15(5) is amended by adding after the word "Assembly" on line 1, a comma and the words "the Department of Human Resources".

Sec. 8. G.S. 108-19(3) is amended by deleting the period at the end and substituting the following: "under pertinent rules and regulations."

Sec. 9. G.S. 108-23 is amended by designating the current section as subsection (a), by deleting subdivision (4), and by adding the following subsection at the end:

"(b) The program of medical assistance is hereby established and shall be administered by the county departments of social services under rules and regulations adopted by the Department of Human Resources."

CHAPTER 1219 Session Laws—1977

Sec. 10. G.S. 108-24(4) is amended by deleting the words "Social Services Commission" and substituting the words "Department of Human Resources".

Sec. 11. G.S. 108-27(a) and (b) are amended by: deleting the words "of the Social Services Commission" at the end of each subsection, and by inserting between the words "the" and "rules", on line 6 of subsection (a) and line 5 of subsection (b), the word "pertinent".

Sec. 12. G.S. 108-42(c) and (d) are amended by inserting after the words "Social Services Commission" the words "or the Department of Human Resources in the case of medical assistance".

Sec. 13. G.S. 108-43 is amended by deleting the period at the end of the first sentence and substituting the following: "or the Department of Human Resources in the case of medical assistance."

Sec. 14. G.S. 108-44(a) is amended by deleting the comma after the word "Commission" on line 6 and substituting the following: "or the Department of Human Resources,".

Sec. 15. G.S. 108-44(b) is amended by deleting the words "of the Social Services Commission" and inserting between the words "the" and "rules" on line 2, the word "pertinent".

Sec. 16. G.S. 108-44(d) is amended by deleting the period at the end of the first sentence and substituting the following: "or the Department of Human Resources."

Sec. 17. G.S. 108-44(e) is amended by deleting the period at the end of the third sentence and substituting the following: "or the Department of Human Resources."

Sec. 18. G.S. 108-44(f) is amended by inserting between the words "Commission" and "and" on line 9 a comma followed by the words "the Department of Human Resources".

Sec. 19. G.S. 108-45(a) is amended by deleting the period at the end and substituting the following: "or the Department of Human Resources."

Sec. 20. G.S. 108-50 is amended by deleting the comma after the word "Commission" on line 9 and substituting the following: "or the Department of Human Resources,".

Sec. 21. G.S. 108-54 is amended by deleting "Director of the Division of Social Services, as agent for the Department of Human Resources," on lines 9 and 10, and by deleting "Director of the Division of Social Services" on lines 15, 26, 32, and 33 and substituting in each instance the words "Department of Human Resources". G.S. 108-54 is further amended by deleting the word "he" on line 27 and substituting the word "it".

Sec. 22. G.S. 108-54.1(b) is amended by deleting "Director of the Division of Social Services, as agent for the Department of Human Resources," and substituting the words "Department of Human Resources".

Sec. 23. G.S. 108-56(a) is amended by deleting the comma after the word "Commission" on line 4 and substituting the following: "or the Department of Human Resources,".

Sec. 24. G.S. 108-59 is amended by deleting the words "Social Services Commission" on lines 2 and 3 and substituting the words "Department of Human Resources".

Sec. 25. G.S. 108-60 is amended by deleting the words "Social Services Commission" on lines 2, 10, 11, and 13 and substituting in each instance the words "Department of Human Resources".

Sec. 26. G.S. 143B-153 is amended by adding at the end of the first paragraph the following:

“Provided, however, the Department of Human Resources shall have the power and duty to adopt rules and regulations to be followed in the conduct of the State’s medical assistance program.”

Sec. 27. G.S. 143B-153(2)a. is amended by deleting the semicolon at the end and substituting the following: “with the exception of the program of medical assistance established by G.S. 108-23(b);”.

Sec. 28. All standards, rules, regulations, determinations, and decisions relating to medical assistance and the medical assistance program adopted before July 1, 1978, by the Social Services Commission and its predecessors shall remain in full force and effect unless and until repealed or superseded by action of the Department of Human Resources.

—MEDICAID SCHEDULES/COUNTY & STATE SHARES OF NON-FED. COSTS

Sec. 29. The second paragraph of Section 23 of the 1978-79 fiscal year Operating and Capital Budget Bill (1977 Session Laws Chapter 1136) is rewritten to read as follows:

“The State shall pay eighty-five percent (85%) and the counties shall pay fifteen percent (15%) of the non-federal costs of all applicable services listed in this section, except as otherwise provided below. The same eighty-five percent (85%) State and fifteen percent (15%) county participation shall be used for any prepaid premium if Medicaid services and related administrative costs are paid for by a health-insuring contractor.

The State shall pay sixty-five percent (65%) and the counties shall pay thirty-five percent (35%) of the non-federal costs of those Skilled Nursing Facilities and Intermediate Care Facilities services which are not owned by the State.

The eighty-five percent (85%) State and fifteen percent (15%) county participation shall remain in effect for all Intermediate Care Facilities for the Mentally Retarded.”

—AGED & FAMILY CARE/COUNTY & STATE SHARES OF COSTS

Sec. 29.1. The State shall pay seventy percent (70%) and the counties shall pay thirty percent (30%) of the cost of Home for the Aged, and the cost of Family Care Home Services.

—COUNTY & STATE SHARES OF COSTS/REPORT

Sec. 30. The Department shall submit a preliminary report to the 1979 Session of the General Assembly and a full report to the 1980 and 1981 Sessions of the General Assembly evaluating the effect of the change in participation rate between the State and the counties in the provision of Skilled Nursing Services, Intermediate Care Services, Home for the Aged, and Family Care Home Services. This report shall detail changes in the utilization of the various facilities and cost savings, if any, to the State as a result of the change in participation rates.

PART V.—SPECIAL PROVISIONS—VARIOUS GOVERNMENT SERVICES

—N. C. APPELLATE DIVISION REPORTS TO CRIME CONTROL DEPT.

Sec. 31. G.S. 7A-343.1, as it appears in the 1977 Cumulative Supplement to Volume 1B of the General Statutes, is amended by adding immediately before “State Library” in the distribution schedule, the following:

CHAPTER 1219 Session Laws—1977

“Crime Control and Public Safety, Department of 2”.

—UTILITIES COMMISSION/TRANSCRIPT FEES

Sec. 32. G.S. 62-300(9), as it appears in the 1977 Cumulative Supplement to Volume 2B of the General Statutes, is amended at the beginning of the subsection by changing “one dollar (\$1.00)” to “fifty cents (\$.50)”.

—SECRETARY OF STATE/OPTION TO USE CERTIFIED MAIL

Sec. 33. G.S. 55-15(b) is amended by inserting in line 10 the words “or certified” after the word “registered” and before the word “mail”.

Sec. 34. G.S. 55-146 is amended as follows:

(a) by inserting in line 7 of subdivision (a) the words “or certified” after the word “registered” and before the word “mail”.

(b) by inserting in lines 2 and 3 of subdivision (b) the words “or certified” after the word “registered” and before the word “mail”.

(c) by inserting in lines 3 and 6 of subdivision (c) the words “or certified” after the word “registered” and before the word “mail”.

(d) by inserting in lines 3, 6, 8, 10 and 11 of subdivision (d) the words “or certified” after the word “registered” and before the word “mail”.

Sec. 35. G.S. 55A-13(b) is amended by inserting in line 10 the words “or certified” after the word “registered” and before the word “mail”.

—EXTEND ISSUE TIME PERIOD/LOCAL GOVERNMENT BONDS

Sec. 36. G.S. 159-64, as it appears in 1976 Replacement Volume 3D of the General Statutes, is amended by inserting immediately before the last sentence of the first paragraph, the following:

“When the issuance of bonds under any bond order, to finance public improvements in an area to be annexed, is prevented or prohibited by reason of litigation respecting the annexation and the Local Government Commission shall certify to such effect, the period of time within which bonds may be issued under the bond order shall be extended by the length of time elapsing between the date of institution of the litigation and the date of its final disposition.”

—BOARD OF EDUCATION/MAINTENANCE & CUSTODIAL SALARIES

Sec. 37. From funds appropriated to the Department of Public Education during the 1978-79 fiscal year, four hundred sixty thousand five hundred eighty-eight dollars (\$460,588) is to be allotted by the State Board of Education to school administrative units for salaries of leadership positions for maintenance and custodial operations of the public schools.

—STATE EMPLOYEE INCENTIVE PAY/ELIGIBILITY AND AWARD CHANGES

Sec. 38. Chapter 1031 of the 1977 Session Laws (as it appears on pages 1339 through 1341 of the Session Laws of North Carolina, 1977 General Assembly, First Session 1977) is amended on page 1339 by rewriting lines 18 through 20 of Section 1, to read as follows:

“the State Auditor, any unit of State Government (a) having an identifiable self-contained budget, or (b) having its financial records maintained according to an accounting system which identifies to the satisfaction of the State Auditor the expenditures and receipts properly attributable to that unit, may make application to the Committee for selection as a candidate for the award of incentive pay to its employees. Such applications”.

Chapter 1031 is further amended on page 1341 by rewriting lines 20 through 23 of the page, to read as follows:

"the 1978-79 fiscal year shall receive only a pro rata share based on the fraction of the year worked for that unit. Funds for this incentive pay shall be drawn from the unit's ending balance for the 1978-79 fiscal year."

—D.O.T./LOANS & GRANTS TO AIRPORTS NOT PUBLICLY OWNED

Sec. 39. G.S. 113-28.5(a), as it appears in 1978 Replacement Part II to G.S. Volume 3A, is amended by inserting the words "or controlled" between the word "owned" and the word "airport" in line five.

Sec. 39.1. G.S. 113-28.7, as it appears in 1978 Replacement Part II to G.S. Volume 3A, is amended by substituting the word "or" for the word "and" between the word "owned" and the word "controlled" in line four.

Sec. 39.2. G.S. 113-28.8(1) is rewritten to read as follows:

"(1) Loans and grants may be for such projects, activities, or facilities as would in general be eligible for approval by the Federal Aviation Administration or its successor agency or agencies with the exception that the requirement that the airport be publicly owned shall not be applicable. Further, airport terminal and security areas, seaplane bases, and heliports are also eligible for State financial aid."

—COMMUNITY COLLEGES/REPEAL UNDERENROLLMENT FUND
RECALL

Sec. 40. Section 35.10 of 1977 Session Laws, Chapter 802, is repealed.

—INDIGENT DEFENSE IN CAPITAL CASES/FUND LIMITATIONS

Sec. 41. The funds appropriated in the amount of five hundred thousand dollars (\$500,000) in Section 2 of the 1978-79 fiscal year Operating and Capital Budget Bill (1977 Session Laws Chapter 1136) to the Judicial Department to provide a second attorney as legal counsel for indigent defendants charged with capital crimes shall be used only when a case is actually tried as a capital case. Any of these funds not required for this purpose shall revert to the General Fund.

—N. C. SCHOOL OF SCIENCE & MATHEMATICS/BOARD OF
TRUSTEES

Sec. 42. The sum of one hundred fifty thousand dollars (\$150,000) which is appropriated to the Department of Public Education for the North Carolina School of Science and Mathematics in Section 2 of the 1978-79 fiscal year Operating and Capital Budget Bill (1977 Session Laws Chapter 1136) shall be used to establish the North Carolina School of Science and Mathematics which shall operate under the general auspices of the State Board of Education, but which shall be governed by the following new Article which is inserted in Chapter 115 of the General Statutes:

"ARTICLE 38E.

"North Carolina School of Science and Mathematics.

"§ 115-315.30. *Establishment of North Carolina School of Science and Mathematics.*—The North Carolina School of Science and Mathematics is established to be governed by a board of trustees described in this Article.

"§ 115-315.31. *Board of Trustees; appointment; terms of office.*—(a) The Board of Trustees of the North Carolina School of Science and Mathematics consists of the following members:

- (1) Five ex officio nonvoting members: the Chairman of the State Board of Education; the Superintendent of Public Instruction; the President of

CHAPTER 1219 Session Laws—1977

the Community College System; the President of the Association of Independent Colleges and Universities; and one member of the Board of Governors of The University of North Carolina designated by the Chairman of that Board.

- (2) Two members appointed by the Superintendent of Public Instruction: a science teacher; and a mathematics teacher; both of whom are from within the State.
- (3) Two members appointed by the Lieutenant Governor: a member of the Senate; and a superintendent of a local school system.
- (4) Two members appointed by the Speaker of the House of Representatives: a member of the House; and a principal of a local school system.
- (5) Fifteen members appointed by the Governor, at least 12 of whom shall be scientists and mathematicians. One of these scientists or mathematicians shall be designated by the Governor as Chairman of the Board of Trustees.

(b) The terms of the appointments of the Lieutenant Governor and of the Speaker of the House shall coincide with the terms of the particular appointing officer. The two initial appointments of the Superintendent of Public Instruction shall be for terms of four years. Five of the initial appointments of the Governor shall be for terms of two years; five shall be for terms of four years; and five shall be for terms of six years. With the exception of the appointments of the Lieutenant Governor and Speaker of the House, at the expiration of the terms of the initial appointees, their successors shall be appointed for terms of six years, beginning July 1 in the year of the respective appointments.

(c) Vacancies in appointive terms shall be filled for the unexpired portion of the terms by appointment of the officer who appointed the person causing each vacancy.

“§ 115-315.32. *Budget; preparation; submission.*—The Board of Trustees, assisted by administrative staff, shall prepare budgets for the School and shall submit these budgets directly to the Governor.”

—JUDICIAL DEPARTMENT/CHILD SUPPORT PROGRAM

Sec. 43. Section 50.51 (Child Support Programs/Funds) of 1977 Session Laws Chapter 802 is amended in the first line by deleting the words “is directed to” and substituting the word “may” in lieu thereof, and is further amended in the fourth line by deleting the words “is directed to” and substituting the word “may” in lieu thereof.

—SPLITTING JUDICIAL DISTRICT 27/EFFECTIVE DATE

Sec. 43.1. Section 2 of Session Laws 1977, Chapter 1130 is amended by substituting the date “July 1, 1978,” in place of the date, “January 1, 1979.”

Sec. 43.2. Section 5 of Session Laws 1977, Chapter 1130 is amended by substituting the date “July 1, 1978,” in place of the date, “January 1, 1979.”

Sec. 43.3. Section 6 of Session Laws 1977, Chapter 1130 is amended by substituting the date, “July 1, 1978,” in place of the date, “January 1, 1979.”

—NAT. RESOURCES DEPT./FOREST DEVELOPMENT APPROPRIATION

Sec. 43.4. Of the funds appropriated in Section 2 of the 1978-79 fiscal year Operating and Capital Budget Bill (1977 Session Laws, Chapter 1136) to the Department of Natural Resources and Community Development for

transfer to budget code 26725—Forest Development Fund, one hundred thousand dollars (\$100,000) is designated specifically for the purchase of equipment.

—SICK PAY PROGRAM FOR STATE EMPLOYEES/STUDY

Sec. 43.5. The Director of the Budget is authorized to utilize existing appropriations in 1978-79, not to exceed five thousand dollars (\$5,000), to investigate the effects of establishing an official "sick pay" program for North Carolina State Government employees. The investigation should consider the establishment of a "sick pay" policy whereby an employee's sick pay would be distinguished from wages and not subject to Social Security payments. The Director of the Budget shall also investigate the possibilities of the State paying the State employees' share of Social Security payments. The Director of the Budget shall report the findings to the 1979 General Assembly.

—AGRICULTURAL MEDICATIONS/EXEMPT FROM SALES TAX

Sec. 43.6. G.S. 105-164.13(2) is rewritten to read as follows:

"(2) Seeds; remedies, vaccines, medications, and feeds for livestock and poultry; rodenticides, insecticides, herbicides, fungicides, and pesticides for livestock, poultry, and agriculture; defoliant for use on cotton or other crops; plant growth inhibitors, regulators, or stimulators for agriculture including systemic and contact or other sucker control agents for tobacco and other crops."

—AUCTIONEERS COMMISSION/FEES

Sec. 43.7. G.S. 85B-6, as it appears in the 1977 Cumulative Supplement to G.S. Volume 2C, is amended by deleting the words "the following fees" (which follow the words "State Treasurer") and inserting in lieu thereof: "fees in an amount not to exceed the following:" in the first sentence of the first paragraph.

PART VI.—SPECIAL PROVISIONS—IMPROVE GOVERNMENT OPERATIONS

—EVALUATION OF NEW PROGRAMS

Sec. 44. G.S. 143A-17 is rewritten to read as follows:

"§143A-17. *Plans and reports.*—Each principal department shall submit an annual plan of work to the Governor and the Advisory Budget Commission prior to the beginning of each fiscal year. Each department which plans to include in its budget request for the ensuing fiscal period a request for (i) the establishment of a new program regardless of the source of the supporting funds, or (ii) the State funding of a program which was previously supported from non-state sources, shall provide in its annual plan of work measurement criteria for the determination of the success or failure of each such program requested. Each principal department shall submit an annual report covering programs and activities to the Governor and Advisory Budget Commission at the end of each fiscal year. These plans of work and annual reports shall be made available to the General Assembly. These documents will serve as the base for the development of budgets for each principal department of the State government to be submitted to the Governor, Advisory Budget Commission, and to the Appropriations Committees of the General Assembly for consideration and approval."

—BUDGETING FEDERAL FUNDS

CHAPTER 1219 Session Laws—1977

Sec. 45. A new G.S. 143-16.1 is added to G.S. Chapter 143, to read as follows:

“§ 143-16.1. *Federal funds.*—All federal funds shall be expended and reported in accordance with provisions of the Executive Budget Act. Proposed budgets recommended to the General Assembly by the Governor and Advisory Budget Commission shall include all appropriate information concerning the federal expenditures in State agencies, departments and institutions.”

—ADVISORY BOARDS/EXECUTIVE DEPARTMENT CREATION

Sec. 46. G.S. 143B-10(d) is rewritten to read as follows:

“(d) The head of each principal department may create and appoint committees or councils to consult with and advise the department. Except as required by State or federal law, such committees or councils shall consist of no more than 10 members unless the approval of the Advisory Budget Commission is obtained to exceed that number. The members of any committee or council created by the head of a principal department shall serve at the pleasure of the head of the principal department and may be paid per diem and necessary travel and subsistence expenses within the limits of appropriations and in accordance with the provisions of G.S. 138-5, when approved in advance by the Advisory Budget Commission. Per diem, travel, and subsistence payments to members of the committees or councils created in connection with federal programs shall be paid from federal funds unless otherwise provided by law.

An annual report listing these committees or councils, the total membership on each, the cost in the last 12 months and the source of funding, and the title of the person who made the appointments shall be made to the Advisory Budget Commission and the Joint Legislative Commission on Governmental Operations by March 31 of each year.”

—STATE-OWNED OFFICE SPACE/RENTAL

Sec. 47. Section 15.5 of 1977 Session Laws, Chapter 802 is repealed.

Sec. 48. A new G.S. 143-342.1 is added to the G.S. Chapter 143, Article 36, sections concerning the Department of Administration, to read as follows:

“§ 143-342.1. *State-owned office space; fees for use by self-supporting agencies.*—The Department shall determine equitable fees for the use of State-owned and -operated office space, and it shall assess all self-supporting agencies using any of this office space for payment of these fees. For the purposes of this section, self-supporting agencies are those agencies designated by the Advisory Budget Commission as being primarily funded from sources other than State appropriations. Fees assessed under this section shall be paid to the Department.

—STATE OFFICE BLDG. ALTERATION & RENOVATION/A.B.C. APPROVAL

Sec. 49. The expenditure of any funds available to and under the use and control of any of the several State agencies, departments, institutions, boards, or commissions for the purpose of alterations and renovations of any office buildings owned or occupied by the State shall require prior approval of the Advisory Budget Commission; however, in implementing this section the Advisory Budget Commission may promulgate rules and policies regarding any delegations of such approval, any minimum or maximum total project cost requiring the Commission's approval, and the applicability of such approval by the Commission on capital renovations and alterations funded out of any capital improvement funds.

—DATA PROCESSING/ANALYSIS BEFORE NEW EQUIPMENT

Sec. 50. Before a request for appropriations for additional data processing equipment, services, or systems reaches the General Assembly, an analysis of the request shall have been completed which shows that the equipment, services, or system to be funded is the most efficient alternative in keeping with an overall State plan for data processing. This analysis shall be conducted by qualified personnel independent of the requesting agency or department, and shall be provided to the Advisory Budget Commission and the Appropriations Committees of the General Assembly.

—RETIREMENT PAY IN ADDITION TO SALARY/STUDY

Sec. 51. A special study commission is established to examine the situation of retirees returning to work in government jobs and drawing both retirement benefits and salaries (or consultant income). The membership of the commission shall be: three Senators appointed by the President of the Senate, three Representatives appointed by the Speaker of the House, the two legislative members of the Board of Trustees of the Teachers' and State Employees' Retirement System, the Director of the Teachers' and State Employees' Retirement System, the Director of the Law Enforcement Officers' Retirement System, the State Treasurer, the State Auditor, and the Director of the State Personnel Commission (13 members). The first meeting of the commission shall be called by the legislative members of the Teachers' and State Employees' Retirement System, and the chairman of the commission shall be elected by the membership. Members of the commission shall be reimbursed for commission-related expenses under G.S. 138-6 and G.S. 120-3.1. The commission shall report to the 1979 General Assembly, by February 15, 1979. Within the limits of funds appropriated in Section 52 of this act, the commission shall have authority to employ part-time clerical staff and to contract for professional consultants from the Institute of Government of the University of North Carolina at Chapel Hill or from other sources.

Sec. 52. Ten thousand dollars (\$10,000) is appropriated from the General Fund to the General Assembly to be administered by the Legislative Services Office for the 1978-79 fiscal year to cover the reasonable expenses of the commission created in Section 51 of this act.

—DOBBS & ARCHDALE BUILDINGS ALTERATIONS/REDUCE DEPT. BUDGETS

Sec. 53. The 1978-79 operating budget appropriations made in Section 2 of the 1978-79 fiscal year Operating and Capital Budget Bill (1977 Session Laws Chapter 1136) are reduced according to the following schedule:

Department of Commerce, deduct	\$11,265
Department of Insurance, deduct	1,027
Department of Natural Resources and Community Development, deduct	<u>3,758</u>
	\$16,050

These amounts reflect the cost of repairs and alterations made to the Dobbs and Archdale Buildings for the particular State department.

Sec. 54. The budget of the Wildlife Resources Commission is reduced by five hundred sixty-eight dollars (\$568.00), which represents the cost of new building repairs and alterations for the commission, and the amount of the reduction shall be placed in the fund balance of the Wildlife Resources Fund.

CHAPTER 1219 Session Laws—1977

—NEW OFFICE EQUIPMENT/USE SURPLUS PROPERTY WHERE AVAILABLE

Sec. 55. Section 15.10 of 1977 Session Laws Chapter 802 is amended in the last sentence by substituting “60 days” for “30 days”.

PART VII.—SPECIAL PROVISIONS—SUPPLEMENTAL ACT

—EFFECT OF MOST LIMITATIONS AND DIRECTIONS IN TEXT/ONLY 78-79

Sec. 56. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1978-79 fiscal year, the textual provisions of this act shall apply only to funds appropriated for, and activities occurring during, the 1978-79 fiscal year.

—SEVERABILITY CLAUSE

Sec. 57. If any section or provision of this act is declared unconstitutional or invalid by the courts, the decision of the court shall not affect the validity of the act as a whole or the validity of any part other than the part declared to be unconstitutional or invalid.

—CAPTIONS NOT LIMIT TEXT/ONLY FOR REFERENCE

Sec. 58. The series of captions used in this act (the descriptive phrases in all capital letters identified by parts numbered with Roman numerals or preceded by five hyphens) are inserted for convenience and reference only, and they in no way define, limit, or prescribe the scope or application of the text of the act.

—EFFECTIVE DATE

Sec. 59. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 1024

CHAPTER 1220

AN ACT TO IMPOSE ON STOCK-OWNED SAVINGS AND LOAN ASSOCIATIONS AN INTANGIBLES TAX ON CUSTOMER DEPOSITS UNDER G.S. 105-199, AND TO MAKE CONFORMING CHANGES TO THE CORPORATION FRANCHISE TAX LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-199 is rewritten in its entirety, to read as follows:

“§ 105-199. *Money on deposit.*—(a) All money on deposit (including certificates of deposit and postal savings) with any bank or other corporation, firm or person doing a banking business, and stock-owned savings and loan association in this State, whether such money be actually in or out of this State, having a business, commercial or taxable situs in this State, shall be subject to an annual tax, which is hereby levied, of ten cents (10¢) on every one hundred dollars (\$100.00) of the total amount of such deposit without deduction for any indebtedness or liabilities of the taxpayer.

For the purpose of determining the amount of deposits subject to this tax every such bank or other corporation, firm or person doing a banking business and every stock-owned savings and loan association shall set up the credit balance of each depositor on the 15th day of each February, May, August, and November in the calendar year next preceding the due date of tax return, and the average of such quarterly credit balances shall constitute the amount of deposit of each depositor subject to the tax herein levied; for the purposes of

this section accounts having an average of quarterly balance for the year of less than three hundred dollars (\$300.00) may be disregarded.

The tax levied in this section upon money on deposit shall be paid by the cashier, treasurer or other officer or officers of every such bank or other corporation, firm or person doing a banking business in this State and of every such stock-owned savings and loan association in this State by report and payment to the Secretary of Revenue on or before April 15 of each year; any taxes so paid as agent for the depositor shall be recovered from the owners thereof by the bank or other corporation, firm or person doing a banking business in this State and by the stock-owned savings and loan association in this State by deduction from the account of the depositor on November 16 of each year or on such date thereafter as in the ordinary course of business it becomes convenient to make such charge. The bank or stock-owned savings and loan association may immediately report and pay the tax due on any account closed out during any quarter in which the bank or stock-owned savings and loan association has withheld the amount of the tax. The tax on deposits represented by time certificates shall be chargeable to the original depositor unless such depositor has given notice to the depository bank or stock-owned savings and loan association of transfer of such certificate of deposit. Accounts that have been closed during the year, leaving no credit balance against which the tax can be charged, may be reported separately to the Secretary of Revenue and the tax due on such accounts shall become a charge directly against the depositor, and such tax may be collected by the Secretary of Revenue from the depositor in the same manner as other taxes levied in this act; the bank or other corporation, firm or person doing a banking business in this State and the stock-owned savings and loan association shall not be held liable for the payment of the tax due on accounts so reported. None of the provisions of this section shall be construed to relieve any taxpayer of liability for a full and complete return of postal savings and of all money on deposit outside this State having business, commercial or taxable situs in this State.

The tax levied in this section shall not apply to deposits by one bank or stock-owned savings and loan association in another bank or stock-owned savings and loan association, nor to deposits of the United States, State of North Carolina, political subdivisions of this State or agencies of this State or agencies of such governmental units. Deposits representing the actual payment of benefits to World War veterans by the federal government, when not reinvested, shall not be subject to the tax levied in this section. Further deposits in North Carolina banks and North Carolina stock-owned savings and loan associations by nonresident individuals and foreign corporations, when such deposits are not related to business activities in this State, shall not be subject to the tax levied in this section. The tax levied in this section shall not apply to deposits of foreign and alien insurance companies which pay the two and one-half percent (2-1/2%) gross premium tax levied by G.S. 105-228.5."

Sec. 2. This act shall become effective January 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 37

CHAPTER 1221

AN ACT TO DEDUCT FROM GROSS INCOME AMOUNTS RECEIVED UNDER A STUDENT LOAN PROGRAM WHICH PROVIDES THAT ALL OR A PORTION OF THE LOAN INDEBTEDNESS MAY BE DISCHARGED IF THE STUDENT PERFORMS CERTAIN SERVICES FOR A PERIOD OF TIME IN A CERTAIN GEOGRAPHICAL AREA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-141(b), as the same appears in the 1975 Cumulative Supplement to 1972 Replacement Volume 2D of the General Statutes, is hereby amended to add the following subdivision (21) immediately following (20) thereof:

“(21) No amount shall be included in gross income by reason of the discharge of all or part of the indebtedness of an individual under a student loan if such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain geographical areas or for certain classes of employers.

For the purposes of this subdivision, the term ‘student loan’ has the same meaning as found in section 2117(b) of the Internal Revenue Code of 1954 as amended.”

Sec. 2. This act shall become effective for income tax years beginning on or after January 1, 1975.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 195

CHAPTER 1222

AN ACT TO AMEND G.S. 20-179(a) TO INCREASE THE PUNISHMENT FOR DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR, NARCOTIC DRUGS, OR OTHER IMPAIRING DRUGS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-179(a) is rewritten to read as follows:

“(a) Every person who is convicted of violating G.S. 20-138, G.S. 20-139(a), or G.S. 20-139(b) shall be punished as follows:

- (1) for a conviction of a first offense, a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), by imprisonment for not more than six months, or by both such fine and imprisonment, in the discretion of the court;
- (2) for a conviction of a second offense, imprisonment for not less than three days nor more than one year and a fine not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00);
- (3) for a conviction of a third or subsequent offense, imprisonment for not less than three days nor more than two years and a fine of not less than five hundred dollars (\$500.00).

The first three days of imprisonment pursuant to subsections (2) and (3) above shall not be subject to suspension or parole; provided that in lieu of such imprisonment pursuant to subsection (2) above the court may allow the defendant to participate in a program for alcohol or drug rehabilitation approved for this purpose by the Department of Human Resources; and upon

defendant's successful completion of such program the court may suspend all or any part of the term of imprisonment. Convictions for offenses occurring prior to July 1, 1978, or more than three years prior to the current offense shall not be considered prior offenses for the purpose of subsections (2) and (3) above."

Sec. 2. This act shall become effective on March 1, 1979.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 1028

CHAPTER 1223

AN ACT TO ALLOW REMOVAL OF DIVORCE ACTIONS TO THE COUNTY OF RESIDENCE OF THE DEFENDANT IF THE PLAINTIFF LEAVES THE STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-3 is amended by adding the following:

"Any action brought under Chapter 50 for alimony or divorce filed in a county where the plaintiff resides but the defendant does not reside, where both parties are residents of the State of North Carolina, and where the plaintiff removes from the State and ceases to be a resident, the action may be removed upon motion of the defendant, for trial or for any motion in the cause, either before or after judgment, to the county in which the defendant resides. The judge, upon such motion, shall order the removal of the action, and the procedures of G.S. 1-87 shall be followed."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 925

CHAPTER 1224

AN ACT TO MODIFY THE INCOME ELIGIBILITY STANDARDS FOR MEDICALLY NEEDY RECIPIENTS OF MEDICAID, SO AS TO IMPLEMENT THE RECOMMENDATIONS OF THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON AGING.

The General Assembly of North Carolina enacts:

Section 1. The fourth paragraph of Section 23 of the 1977 North Carolina Session Laws Chapter 1136, which sets maximum net family annual income eligibility standards for Medicaid, is rewritten to read as follows:

"Maximum net family annual income eligibility standards for Medicaid shall be as follows:

<u>Family Size</u>	<u>Categorically Needy</u>		<u>Medically Needy</u>
	<u>AFDC*</u>	<u>AA,AB,AD*</u>	
1	\$1,452	\$1,700	\$1,900
2	1,908	2,200	2,500
3	2,196	2,500	2,800
4	2,400	2,800	3,100
5	2,628	3,000	3,400
6	2,832	3,200	3,600
7	3,036	3,400	3,900
8	3,168	3,600	4,100
9	3,300	3,800	4,200

CHAPTER 1224 Session Laws—1977

10	3,480	4,000	4,500
11	3,660	4,200	4,700
12	3,840	4,400	4,900
13	4,020	4,600	5,200

[*Aid to Families with Dependent Children (AFDC); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD).] Any change in these standards must be approved by the Governor and the Advisory Budget Commission."

Sec. 2. There is appropriated from the General Fund of the State to the Department of Human Resources, Division of Social Services, Medical Assistance Program, the sum of six hundred thousand dollars (\$600,000) for the fiscal year 1978-79. These funds are in addition to any other appropriation, and they are to be used to pay the additional cost of increasing the income eligibility standards for medically needy recipients of Medicaid.

Sec. 3. This act shall become effective on July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 941

CHAPTER 1225

AN ACT TO APPROPRIATE FUNDS FOR THE INSTALLATION OF A CLIMATE CONTROL SYSTEM IN THE MUSEUM OF THE ALBEMARLE IN ELIZABETH CITY.

Whereas, The Museum of The Albemarle was chartered on the first day of October in the year 1962 by virtue of the laws of North Carolina; and

Whereas, the purposes of the organization are: to discover and to collect museum material, such as native relics, photographs, documents and material objects illustrative of life, conditions, events and activities of the past and present in the Albemarle Region of the State of North Carolina; to provide for the preservation of such material for the educational interpretation and exhibition of such artifacts and for their accessibility as far as may be feasible to all who wish to examine or study such items; and

Whereas, the concept and nature of the museum is that of an educational institution that embraces a ten-county area which is generally influenced by the same historical antecedents; and

Whereas, the amount of forty-three thousand six hundred dollars (\$43,600) was appropriated by the 1963 North Carolina General Assembly to be used for the construction, equipping, and furnishing of a museum building and those nonrecurring expenses necessary to establish and begin operation of The Museum of The Albemarle; and

Whereas, since that time The Museum of The Albemarle has gained a broad constituency in terms of museum visitation and use of museum services; and

Whereas, The Museum of The Albemarle, situated in Elizabeth City, North Carolina, has received yearly operating support from the counties of Currituck, Camden, Perquimans and Pasquotank, and in addition has served the counties of Gates, Washington, Chowan, Hyde, Dare and Tyrrell; and

Whereas, local funds above the amount of eighteen thousand dollars (\$18,000) have been used for capital improvements since 1971; and

Whereas, a new wing 47 feet wide and 92 feet long has been constructed utilizing locally raised funds and volunteers; and

Whereas, the new wing lacks insulation and a climate control system; and

Whereas, The Museum of The Albemarle, during its 14-year history, has obtained and placed on display an excellent collection of historical artifacts significant to the history of the Albemarle Region and of North Carolina; and

Whereas, the installation of insulation and a climate control system in the new wing of The Museum of The Albemarle is crucial to the protection and preservation of these artifacts; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the State Department of Cultural Resources, Division of Archives and History, to be expended for the installation of insulation and a climate control system in The Museum of The Albemarle, the sum of fourteen thousand dollars (\$14,000) for the fiscal year 1978-79.

Sec. 2. This sum is to be expended under the rules and regulations prescribed by the State Department of Cultural Resources.

Sec. 3. All laws and clauses of laws in conflict with this act are hereby repealed.

Sec. 4. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 942

CHAPTER 1226

AN ACT TO APPROPRIATE THIRTY-SIX THOUSAND SEVEN HUNDRED TEN DOLLARS TO THE DEPARTMENT OF CULTURAL RESOURCES TO FUND CAPITAL IMPROVEMENTS FOR THE TOWN CREEK INDIAN MOUND.

The General Assembly of North Carolina enacts:

Section 1. Thirty-six thousand seven hundred ten dollars (\$36,710) is appropriated from the General Fund to the Department of Cultural Resources for fiscal year 1978-79 to fund capital improvements for the Town Creek Indian Mound.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 946

CHAPTER 1227

AN ACT TO PROVIDE PAYMENT FOR INJURIES SUSTAINED BY PUPILS IN SCHOOL BUS ACCIDENTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1024 of the Session Laws of 1977 is hereby repealed.

Sec. 2. The sum of seventy thousand dollars (\$70,000), which was appropriated in Chapter 24 of the Session Laws of 1977, shall be available for the remainder of the 1977-78 fiscal year and for all of the 1978-79 fiscal year for the purpose of settling a claim by Lisa Haney, a pupil injured in a school bus accident on November 12, 1976. The claim may be paid out of the settlement funds appropriated by this act notwithstanding any provision of law to the contrary; provided however, that no claim shall be paid unless a release is executed whereby any and all further claims in behalf of the injured pupil are relinquished.

CHAPTER 1227 Session Laws—1977

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 958

CHAPTER 1228

AN ACT TO APPROPRIATE FUNDS TO PROVIDE AN INVESTIGATORIAL ASSISTANT FOR THE 28TH PROSECUTORIAL DISTRICT.

The General Assembly of North Carolina enacts:

Section 1. In addition to any other appropriation, there is hereby appropriated from the General Fund to the Administrative Office of the Courts the sum of seven thousand six hundred twenty-five dollars (\$7,625) for the fiscal year 1978-79 to be used for the salary, travel and equipment for an investigatorial assistant for the District Attorney of the 28th Prosecutorial District.

Sec. 2. This act shall become effective January 1, 1979.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 963

CHAPTER 1229

AN ACT TO APPROPRIATE FUNDS FOR FIVE SBI AGENTS TO PROVIDE AN APPROPRIATE RESPONSE TO THE DEMAND FOR ADDITIONAL LAW ENFORCEMENT SERVICES CAUSED BY INCREASED ILLEGAL DRUG ACTIVITY IN NORTH CAROLINA.

Whereas, illegal drug activity in North Carolina has reached an alarming level causing great public concern; and

Whereas, said illegal drug activity in North Carolina constitutes a constant and present danger to the well-being of the citizens of North Carolina; and

Whereas, increased law enforcement efforts on a statewide level are necessary to combat this immediate threat to the citizenry; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated out of the General Fund to the Department of Justice the sum of one hundred fifty-eight thousand one hundred seventy dollars (\$158,170) for the fiscal year 1978-79 to be expended for the salaries and equipment for five additional agents of the State Bureau of Investigation to be used in enforcing the drug laws of North Carolina.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 965

CHAPTER 1230

AN ACT TO FULLY FUND MAGISTRATE POSITIONS ALREADY AUTHORIZED FOR HALIFAX COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Administrative Office of the Courts the sum of ten thousand two hundred dollars (\$10,200) for the fiscal year 1978-79, in order to fully fund the additional magistrates in Halifax County authorized by Chapter 947, Session Laws of 1977.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 967

CHAPTER 1231

AN ACT TO APPROPRIATE FUNDS TO THE ADMINISTRATIVE OFFICE OF THE COURTS FOR AN ADDITIONAL DEPUTY CLERK AND EQUIPMENT IN THE OFFICE OF CLERK OF SUPERIOR COURT IN HARNETT COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The sum of eight thousand nine hundred sixty dollars (\$8,960) for fiscal year 1978-79 is hereby appropriated from the General Fund to the Administrative Office of the Courts to be used for an additional deputy clerk and clerical equipment in the office of the Clerk of Superior Court of Harnett County.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 973

CHAPTER 1232

AN ACT TO APPROPRIATE FUNDS TO THE EASTERN CAROLINA SHELTERED WORKSHOP AND VOCATIONAL REHABILITATION CENTER IN GREENVILLE, NORTH CAROLINA, AS MATCHING FUNDS FOR SPECIAL FEDERAL APPROPRIATION.

Whereas, the Eastern Carolina Sheltered Workshop has developed a project entitled "Recreation and Supplemental Housing Project for the Handicapped"; and

Whereas, this project is designed to complement the current vocational evaluation, vocational development and vocational adjustment program being offered by the workshop; and

Whereas, the total cost of this project is estimated to be three million seven hundred fourteen thousand eight hundred dollars (\$3,714,800); and

Whereas, the Eastern Carolina Sheltered Workshop has been approved for special federal appropriations to develop this project under the authority of Section 304(b)(3) of the Rehabilitation Act of 1973, as amended (P.L. 93-112) which allows federal financial participation up to ninety percent (90%), requiring a ten percent (10%) participation from nonfederal funds; and

Whereas, the Eastern Carolina Sheltered Workshop has received approval for a grant of two million one hundred ninety thousand dollars (\$2,190,000) from Federal FY 1978 funds and assurance of an additional grant of one million

CHAPTER 1232 Session Laws—1977

one hundred fifty-three thousand three hundred twenty dollars (\$1,153,320) from the Federal FY 1979 funds for a total of three million three hundred forty-three thousand three hundred twenty dollars (\$3,343,320), the maximum allowable; and

Whereas, three hundred seventy-one thousand four hundred eighty dollars (\$371,480) is required as matching funds to meet the ten percent (10%) nonfederal matching funds requisite; and

Whereas, one hundred forty-six thousand four hundred eighty dollars (\$146,480) is to be raised by Martin and Pitt counties and the City of Greenville; and

Whereas, an additional two hundred twenty-five thousand dollars (\$225,000) is needed as matching funds to obtain the benefits of this federal grant; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Vocational Rehabilitation Services, Department of Human Resources, the sum of two hundred twenty-five thousand dollars (\$225,000) for the fiscal year 1978-79 to be used as matching funds by the Eastern Carolina Sheltered Workshop for implementation of the "Recreation and Supplemental Housing Project for the Handicapped".

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 982

CHAPTER 1233

AN ACT TO PROVIDE FOR THE MORE EXPEDITIOUS PUBLICATION OF THE COLONIAL RECORDS OF NORTH CAROLINA (SECOND SERIES).

Whereas, North Carolina is the oldest English-speaking colony in North America; and

Whereas, this State was founded upon the laws, customs, and principles of England; and

Whereas, prior to 1776, London, England, stood in a similar relationship to the government of North Carolina as Washington, D. C., does today; and

Whereas, the collection and publication of the records relating to the history of the North Carolina colony are essential to an understanding of the development of this State; and

Whereas, the great Revolutionary leaders of North Carolina such as Cornelius Harnett, James Iredell, Samuel Johnston, Richard Caswell, William Hooper, and others were thoroughly grounded in the principles of the English common law; and

Whereas, this State has been systematically gathering its colonial records since 1961 and publishing them in a widely acclaimed series since 1963; and

Whereas, the Colonial Records Branch of the Division of Archives and History, Department of Cultural Resources, was awarded the highest national Award of Merit of the American Association for State and Local History for its excellence as an archival and publications project; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for fiscal year 1978-79 the sum of eleven thousand six hundred eighty-six dollars (\$11,686) to provide for the more expeditious publication of the Colonial Records of North Carolina (Second Series).

Sec. 2. This act shall become effective on July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 984 CHAPTER 1234

AN ACT TO APPROPRIATE FUNDS TO PROVIDE A SECRETARY FOR THE STATESVILLE OFFICE OF THE DISTRICT ATTORNEY FOR THE 22ND DISTRICT.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated out of the General Fund to the District Attorney for the 22nd Prosecutorial District the sum of ten thousand four hundred eighty-four dollars (\$10,484) for the fiscal year 1978-79 to be expended for the salary and equipment of a secretary for the Statesville office of the 22nd Prosecutorial District.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 988 CHAPTER 1235

AN ACT TO APPROPRIATE FUNDS TO PERMIT THE INSTALLATION OF A COMPREHENSIVE SECURITY SYSTEM IN THE TRYON PALACE COMPLEX AT NEW BERN.

Whereas, the Tryon Palace Complex at New Bern has been adjudged throughout North Carolina history to be one of the most significant historic properties in the State of North Carolina; and

Whereas, through the interest and the estates of Maude Moore Latham and John and May Gordon Kellenberger of Greensboro the historic Tryon Palace Complex, including many surrounding buildings, has been preserved, restored, and reconstructed giving the State of North Carolina and her citizens one of the most outstanding historic restorations in the nation; and

Whereas, since 1945 through the beneficence of Mrs. Latham and the Kellenbergers the Tryon Palace Commission has expended more than ten million dollars (\$10,000,000) of private funds in perfecting this unique complex, all improvements of which have been transferred to the ownership of the State of North Carolina; and

Whereas, believing that the complex should be provided with the most advanced security system available to protect the priceless buildings and their contents, the 1975 Session of the General Assembly appropriated forty thousand dollars (\$40,000) for the installation of such a system; and

Whereas, since the appropriated funds will provide less than half the cost of installing the type of security system required, the Tryon Palace Commission has offered to pay from private funds one half the cost of the system (whose current low bid is approximately one hundred twenty-five thousand dollars

CHAPTER 1235 Session Laws—1977

(\$125,000) inclusive of design fees) if the State of North Carolina will pay the remaining half of the cost; and

Whereas, in view of the recent death of May Gordon Kellenberger with the establishment in her will of a fund for the permanent care of Tryon Palace and in honor of the great contributions she made to Tryon Palace both in life and death, it is appropriate that the General Assembly of North Carolina should make possible one of her final objectives for the care and protection of the complex; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the capital improvement budget of the Division of Archives and History, Department of Cultural Resources, for the fiscal year 1978-79, the sum of twenty-two thousand five hundred dollars (\$22,500) to be combined with a previous appropriation of forty thousand dollars (\$40,000) and with a like amount of sixty-two thousand five hundred dollars (\$62,500) to be provided by the Tryon Palace Commission for the purpose of installing a complete security system in all of the buildings of the Tryon Palace Complex.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 992 CHAPTER 1236

AN ACT TO APPROPRIATE SIXTY THOUSAND DOLLARS FOR CROP PRODUCTION AND UTILIZATION BY THE DEPARTMENT OF AGRICULTURE.

The General Assembly of North Carolina enacts:

Section 1. Sixty thousand dollars (\$60,000) is appropriated from the General Fund for the 1978-79 fiscal year to the Department of Agriculture for Horticultural Crop Production and the development of the ornamental shrubbery industry to be used as follows: sixty thousand dollars (\$60,000) for a horticultural specialist, a technician, and a secretary, and related expenses, at Fletcher, North Carolina, to work in the area of shrubbery development.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 995 CHAPTER 1237

AN ACT TO AMEND G.S. 138-6(a)(3) WHICH PROVIDES SUBSISTENCE AND TRAVEL ALLOWANCE FOR STATE EMPLOYEES AND OFFICERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 138-6(a)(3) is hereby amended to read as follows:

“(3) In lieu of actual expenses incurred for subsistence, payment of twenty-seven dollars (\$27.00) per day when traveling in-state or thirty-nine dollars (\$39.00) per day when traveling out-of-state. When travel involves less than a full day (24-hour period), a reasonable prorated amount shall be paid in accordance with regulations and criteria which shall be promulgated and published by the Director of the Budget. This shall not apply to those

employees who are employed by the North Carolina State Burial Association Commission.”

Sec. 2. G.S. 138-6(a)(4) is hereby amended to read as follows:

“(4) For convention registration fees not to exceed thirty dollars (\$30.00) per convention.”

Sec. 3. The heads of departments shall administer the provisions of Section 1 and Section 2 above in a manner to assure that these provisions are funded from within existing authorized budgets.

Sec. 4. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 996

CHAPTER 1238

AN ACT TO DIVIDE THE NINETEENTH JUDICIAL DISTRICT, AND TO CREATE AN ADDITIONAL DISTRICT ATTORNEY AND DISTRICT COURT JUDGE AS REQUIRED THEREBY AND TO MAKE APPROPRIATIONS THEREFOR.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-41 is amended in the Table, effective January 1, 1979, by deleting the reference to the Nineteenth Judicial District therein, and inserting in lieu thereof the following:

Judicial District	Counties	No. of Resident Judges	No. of Full-Time Asst. District Attorneys
		Judges	Attorneys
19A	Cabarrus, Rowan	2	4
19B	Montgomery, Randolph	1	3”

Sec. 2. G.S. 7A-60(b) is amended by adding the following paragraph at the end:

“Effective January 1, 1979, the Nineteenth Prosecutorial District is divided into two Prosecutorial Districts, to be known as Prosecutorial Districts 19A and 19B. District 19A shall consist of Cabarrus and Rowan Counties, and District 19B shall consist of Montgomery and Randolph Counties. The current District Attorney of the Nineteenth Prosecutorial District shall become the District Attorney for Prosecutorial District 19A, and the Governor shall appoint a District Attorney for Prosecutorial District 19B. The appointee shall serve until January 1, 1981, and his successor shall be chosen in the general election of November 1980, to serve a four-year term beginning January 1, 1981.”

Sec. 3. G.S. 7A-133 is amended in the Table, effective January 1, 1979, by deleting the references to the Nineteenth District under the columns headed “District”, “Judges”, and “County”, and inserting in lieu thereof:

“District	Judges	County
19A	4	Cabarrus
		Rowan
19B	2	Montgomery
		Randolph”

Sec. 4. The additional district court judge authorized by this act for District 19B shall be appointed by the Governor to serve until the first Monday in December 1980. The appointee’s successor shall be chosen in the general

CHAPTER 1238 Session Laws—1977

election of November 1980 to serve a four-year term beginning the first Monday in December 1980.

Sec. 4. There is hereby appropriated from the General Fund to the Judicial Department the sum of eighty-three thousand four hundred ten dollars (\$83,410) for the 1978-79 fiscal year to provide additional judicial employees in Judicial District 19B.

Sec. 5. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 998

CHAPTER 1239

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HUMAN RESOURCES TO IMPLEMENT CERTIFICATE OF NEED IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Human Resources the sum of ninety-nine thousand seven hundred thirty dollars (\$99,730) for fiscal year 1978-79. These funds are to be used to implement the North Carolina Health Planning and Resource Development Act of 1978.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 999

CHAPTER 1240

AN ACT REVISING BENEFITS OF THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-27(b5), as it appears in the 1977 Cumulative Supplement to Replacement Volume 3B of the General Statutes, is amended by rewriting the first four lines to read as follows:

"(b5) Service retirement allowances of members retiring on or after July 1, 1976, but prior to July 1, 1978. Upon retirement from service, in accordance with subsection (a) above, on or after July 1, 1976, but prior to July 1, 1978, a member shall receive a service retirement allowance computed as follows:"

Sec. 2. G.S. 128-27, as it appears in the 1977 Cumulative Supplement to Replacement Volume 3B of the General Statutes, is further amended by the addition of a new subsection immediately after (b5) to read as follows:

"(b6) Service retirement allowances of members retiring on or after July 1, 1978. Upon retirement from service, in accordance with subsection (a) above, on or after July 1, 1978, a member shall receive a service retirement allowance computed as follows:

(1) If the member's service retirement date occurs on or after his 65th birthday, regardless of his years of creditable service, or after the completion of 30 years of creditable service, such allowance shall be equal to one and fifty-five one-hundredths percent (1.55%) of his average final compensation, multiplied by the number of years of his creditable service.

(2a) If the member's service retirement date occurs after his 60th and before his 65th birthday and prior to his completion of 30 or more years of creditable service, his retirement allowance shall be computed as in (1) above, but shall be reduced by one quarter of one percent ($1/4$ of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.

(2b) If the member's service retirement date occurs before his 60th birthday and prior to his completion of 30 or more years of creditable service, his retirement allowance shall be the actuarial equivalent of the allowance payable at the age of 60 years as computed in (2a) above.

(3) Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, and uniformed policemen or firemen not covered under the Social Security Act employed thereafter, shall receive not less than the benefits provided by G.S. 128-27(b)."

Sec. 3. G.S. 128-27, as it appears in the 1977 Cumulative Supplement to Replacement Volume 3B of the General Statutes, is further amended by the addition of a new subsection (u) to read as follows:

"(u) Notwithstanding the foregoing provisions, the increase in allowance to each beneficiary on the retirement rolls as of July 1, 1977, which shall become payable on July 1, 1978, as otherwise provided in G.S. 128-27(k), shall be the current maximum four percent (4%) plus an additional two and one-half percent ($2\frac{1}{2}\%$) for the year beginning July 1, 1978. The provisions of this subsection shall apply also to the allowance of a surviving annuitant of a beneficiary."

Sec. 4. G.S. 128-27, as it appears in the 1977 Cumulative Supplement to Replacement Volume 3B of the General Statutes, is further amended by the addition of a new subsection (v) to read as follows:

"(v) Increases in allowances paid beneficiaries retired prior to July 1, 1976. From and after July 1, 1978, the monthly allowances paid to or on account of beneficiaries who commenced receiving such allowances prior to July 1, 1976, shall be increased by seven percent (7%) thereof. This increase shall be calculated before monthly allowances, as of July 1, 1978, have been increased to the extent provided for in the preceding subsections (k) and (u). The provisions of this subsection shall apply also to the allowance of a surviving annuitant of a beneficiary."

Sec. 5. G.S. 128-27(1), as it appears in the 1974 Replacement Volume 3B of the General Statutes, is amended by: inserting, in line 22 after the word "death" and before the period, the words "or if his last day of actual service occurred not more than 366 days before the date of his death, on or after July 1, 1978, if such member during said one-year period had applied for and was entitled to receive a disability retirement allowance, provided said disability retirement allowance had not been discontinued or revoked during said one-year period"; and, removing the semicolon at the end of line 16 and inserting in lieu thereof a comma followed by the word "or" and adding a new subdivision (3) to read "(3). If the member had applied for and was entitled to receive a disability retirement allowance and such disability retirement allowance had not been discontinued or revoked within 366 days of his last date of actual service, the compensation on which contributions were made by the member during the 12-month period ending on the last day of the month preceding the month in which his last day of actual service occurred;"

CHAPTER 1240 Session Laws—1977

Sec. 6. G.S. 128-27(1), as it appears in the 1974 Replacement Volume 3B of the General Statutes, is amended by: deleting in line 17 after the word “of” and before the period “fifteen thousand dollars (\$15,000)” and inserting in lieu thereof “twenty thousand dollars (\$20,000)”; and, deleting in lines 9 and 10 of subdivision (4) of the last paragraph after the word “exceed” and before the period “fifteen thousand dollars (\$15,000)” and inserting in lieu thereof “twenty thousand dollars (\$20,000)”.

Sec. 7. G.S. 128-27(1), as it appears in the 1974 Replacement Volume 3B of the General Statutes, is amended by inserting a new paragraph, between the second and third paragraphs, to read as follows: “Notwithstanding the above provisions, the death benefit shall be payable on account of the death of any member who died or dies on or after January 1, 1974, after attaining age 65, if he had not yet attained age 66, was at the time of death completing the work year for those individuals under specific contract, or during the fiscal year for those individuals not under specific contract, in which he attained age 65, and otherwise met all conditions for payment of the death benefit.”

Sec. 8. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 1000

CHAPTER 1241

AN ACT TO APPROPRIATE FUNDS TO THE LEGISLATIVE COMMISSION ON MEDICAL COST CONTAINMENT FOR FISCAL YEAR 1978-79.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated to the General Assembly for the Legislative Commission on Medical Cost Containment from the General Fund of the State seven thousand five hundred dollars (\$7,500) in fiscal year 1978-79. These funds shall be used in performance of the Commission duties set forth in Chapter 968 of the 1977 Session Laws.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 1001

CHAPTER 1242

AN ACT TO APPROPRIATE FUNDS TO IMPROVE THE SERVICES FURNISHED THE PUBLIC BY THE NORTH CAROLINA STATE ARCHIVES.

Whereas, the number of citizens and visitors to the State utilizing the facilities of the North Carolina State Archives has increased from an average of 1,112 per month to an average of 1,417 per month in the past two years; and

Whereas, assistance is required in the Archives Search Room during the summer months and on Saturday, which are heavy demand days; and

Whereas, the move of the State Records Center from 120 West Lane Street to 211 North Blount Street has not been completed because of the curtailment of funds appropriated for the move in fiscal year 1975-76, which funds reverted to the General Fund on June 30, 1976; and

Whereas, reference demands in the Archives Search Room for microfilm and for photographic negatives requires additional specialized equipment for

Session Laws—1977 CHAPTER 1243

the storage of such photographic and microphotographic records; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the fiscal year 1978-79, the sum of ten thousand two hundred ninety-one dollars (\$10,291) to provide additional services in the Archives Search Room on heavy demand days, to complete the move of the State Records Center, and to provide specialized equipment for the storage of microphotographic and photographic records.

Sec. 2. Five thousand dollars (\$5,000) of the amount appropriated shall be appropriated for one year only and shall not be recurring.

Sec. 3. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 1009 CHAPTER 1243

AN ACT TO APPROPRIATE FUNDS FOR NEW POSITIONS FOR COURT PERSONNEL AND EQUIPMENT IN VARIOUS COUNTIES.

The General Assembly of North Carolina enacts:

Section 1. In addition to any other appropriations there is hereby appropriated from the General Fund to the Administrative Office of the Courts for fiscal year 1978-79 the sum of two hundred fifty thousand eight hundred eighty dollars (\$250,880) for new deputy clerks of court at the designated salary and assigned to the clerks of superior court in the numbers and to the counties as follows:

Beaufort	1 at	\$ 8,960
Buncombe	1 at	8,960
Catawba	1 at	8,960
Forsyth	3 at	8,960
Greene	1 at	8,960
Guilford	5 at	8,960
Haywood	1 at	8,960
Henderson	1 at	8,960
McDowell	1 at	8,960
Mecklenburg	5 at	8,960
Moore	1 at	8,960
Transylvania	1 at	8,960
Wake	5 at	8,960
Wilkes	1 at	8,960

Sec. 1.1. There is hereby appropriated from the General Fund of the State to the Administrative Office of the Courts the sum of twenty-four thousand five hundred dollars (\$24,500) for fiscal year 1978-79 which sums together with appropriations made by Chapter 802, Session Laws of 1977 and by appropriations made by the 1977 General Assembly, Second Session 1978, are to be used for additional deputy clerks and clerical equipment to be allocated as follows: one additional deputy clerk each for Bladen, Columbus, and Sampson Counties.

CHAPTER 1243 Session Laws—1977

Sec. 2. In addition to any other appropriations, there is hereby appropriated from the General Fund to the Administrative Office of the Courts for fiscal year 1978-79 the sum of fifteen thousand six hundred twenty-four dollars (\$15,624) for new assistant clerks of court at the designated salary and assigned to the clerk of superior court in the numbers and to the counties as follows:

Alleghany	1 at	\$ 7,812
Ashe	1 at	7,812

Sec. 3. In addition to any other appropriations, there is hereby appropriated from the General Fund to the Administrative Office of the Courts for fiscal year 1978-79 the sum of fifty-four thousand dollars (\$54,000) for new magistrates for the designated counties at the indicated salary:

Ashe	1 at	\$ 9,000
Avery	1 at	9,000
Gaston	1 at	9,000
Lincoln	1 at	9,000
Madison	1 at	9,000
Surry	1 at	9,000

G.S. 7A-133 is amended, in the table, so that the quotas of magistrates for the indicated counties are increased as follows:

County	Magistrates	
	Min.	Max.
Ashe	3	4
Avery	3	4
Gaston	11	19
Lincoln	4	6
Madison	4	5
Surry	5	8"

Sec. 4. In addition to any other appropriations, there is hereby appropriated from the General Fund to the Administrative Office of the Courts for fiscal year 1978-79 the sum of sixty-eight thousand one hundred fifty-six dollars (\$68,156) for full-time assistant district attorneys at the designated salary and assigned to the district attorneys in the numbers and prosecutorial districts as follows:

District 15B	1 at	\$20,656
District 18	2 at	23,750

G.S. 7A-41 is amended, in the table, so that the total number of full-time assistant district attorneys for the indicated districts shall read as follows:

District	Number of Full-Time Assistant District Attorneys
15B	3
18	12"

Sec. 5. In addition to any other appropriations, there is hereby appropriated from the General Fund to the Administrative Office of the Courts the sum of eleven thousand sixty-four dollars (\$11,064) for the fiscal year 1978-79 to be used for the salary for an investigatorial assistant for the District Attorney of District 15B.

Sec. 6. In addition to any other appropriations, there is hereby appropriated from the General Fund to the Administrative Office of the Courts for the fiscal year 1978-79 the sum of twenty-eight thousand three hundred

seventy-two dollars (\$28,372) for the salary of one district court judge for the 23rd District.

G.S. 7A-133 is amended, in the table, so that the total number of judges for the indicated districts will read as follows:

"District 23	Judges 3"
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Sec. 7. In addition to any other appropriations, there is hereby appropriated from the General Fund to the Administrative Office of the Courts for the fiscal year 1978-79 the sum of seven thousand four hundred seventy-six dollars (\$7,476) for a secretary for the District Attorney's Office for the 16th Judicial District.

Sec. 8. In addition to any other appropriations, there is hereby appropriated from the General Fund to the Administrative Office of the Courts for the fiscal year 1978-79 the sum of seven thousand four hundred seventy-six dollars (\$7,476) for a secretary for the District Attorney's office for the 18th District.

Sec. 9. In addition to any other appropriations, there is hereby appropriated from the General Fund to the Administrative Office of the Courts for the fiscal year 1978-79 the sum of fourteen thousand nine hundred fifty-two dollars (\$14,952) for two secretaries for the District Attorney's Office for the 26th Judicial District.

Sec. 10. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 1019

CHAPTER 1244

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF ADMINISTRATION FOR THE PURPOSE OF DEVELOPING A STATEWIDE INVENTORY OF LANDS AND BUILDINGS OWNED OR LEASED BY THE STATE.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Administration, State Property Office, in addition to all other appropriations, the sum of one hundred sixty-four thousand eight hundred sixty-eight dollars (\$164,868) for fiscal year 1978-79, to be used to develop a statewide inventory of all lands and buildings owned or leased by the State.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 1021

CHAPTER 1245

AN ACT TO APPROPRIATE FUNDS TO THE ADMINISTRATIVE OFFICE OF THE COURTS FOR AN ADDITIONAL DEPUTY CLERK AND EQUIPMENT IN THE OFFICE OF CLERK OF SUPERIOR COURT IN CHOWAN COUNTY AND IN NORTHAMPTON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The sum of seventeen thousand nine hundred twenty dollars (\$17,920) for fiscal year 1978-79 is hereby appropriated from the General Fund to the Administrative Office of the Courts to be used for an additional deputy clerk and clerical equipment in the office of the Clerk of Superior Court of Chowan County and for an additional deputy clerk and clerical equipment in the office of the Clerk of Superior Court of Northampton County.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 1022

CHAPTER 1246

AN ACT TO APPROPRIATE FUNDS TO THE HEALTH ADVENTURE, A NONPROFIT CORPORATION.

Whereas, The Health Adventure is a nonprofit corporation which is successor to the Asheville Health Education Museum; and

Whereas, The Health Adventure is located in the Mountain Area Health Education Center at Asheville, North Carolina; and

Whereas, The Health Adventure is developing and expanding basic teaching aids and resources in various fields, with special emphasis during 1978-79 on nutrition, dental health, and mental health; and

Whereas, The Health Adventure has raised a total of two hundred eighty-five thousand dollars (\$285,000) of a total goal of three hundred ninety-one thousand dollars (\$391,000); Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to The Health Adventure, a nonprofit corporation, the sum of thirty thousand dollars (\$30,000) for fiscal year 1978-79 for use in developing its program of health education.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 956

CHAPTER 1247

AN ACT TO PROVIDE FUNDS TO IMPLEMENT THE NATIONAL GUARD TUITION ASSISTANCE ACT.

The General Assembly of North Carolina enacts:

Section 1. In addition to any other appropriations, there is hereby appropriated from the General Fund to the Department of Crime Control and Public Safety the sum of forty-five thousand dollars (\$45,000) for the fiscal year 1978-79 for the implementation of the North Carolina National Guard Tuition Assistance Act.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 964

CHAPTER 1248

AN ACT TO TRANSFER FUNDS FROM LAW ENFORCEMENT OFFICERS' MINIMUM SALARY PROGRAM TO PREVENT THE ELIMINATION OF THE JUDICIAL ADVISORY UNIT.

Whereas, the existing advisory unit for judges and district attorneys has provided legal counsel to those officials throughout the State; and

Whereas, the unit is able to provide immediate response to inquiries even during the course of a trial thereby possibly preventing the occurrence of serious or reversible error; and

Whereas, the effectiveness of the unit is verified by the numerous requests for its services; and

Whereas, the unit has been funded completely by a LEAA grant which will be exhausted on June 30, 1978, and no additional federal funding is forthcoming; and

Whereas, it is therefore necessary that State funds be appropriated for the continued existence of the unit; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Department of Justice is hereby directed to redirect funds in the amount of eighty-eight thousand nine hundred sixteen dollars (\$88,916) which have been appropriated for the fiscal year 1978-79 to provide minimum salaries for local law enforcement officers, and to use this amount for the salaries and equipment for two attorneys, two research assistants, and one secretary for the Judicial Advisory unit.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 969

CHAPTER 1249

AN ACT TO INCREASE THE SALARY AND EXPENSE ALLOWANCE OF THE GOVERNOR AND MEMBERS OF THE 1979 GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 120-3 is amended to read as follows:

“The Speaker of the House shall be paid an annual salary of twelve thousand dollars (\$12,000), payable monthly, and an expense allowance of three hundred dollars (\$300.00) per month. The President pro tempore of the Senate, the Speaker pro tempore of the House, the minority leader in the House, and the minority leader in the Senate shall each be paid an annual salary of seven thousand five hundred dollars (\$7,500), payable monthly, and an expense allowance of two hundred dollars (\$200.00) per month. Every other member of the General Assembly shall be paid an annual salary of six thousand dollars (\$6,000), payable monthly, and an expense allowance of one hundred fifty dollars (\$150.00) per month. The salary and expense allowances provided in this section are in addition to any per diem compensation and any subsistence and travel allowance authorized by any other law with respect to any regular or extra session of the General Assembly, and service on any State board, agency, commission, standing committee and study commission.

Sec. 2. Subsections (b) and (c) of G.S. 120-3 are repealed.

Sec. 3. G.S. 120-3.1(a)(3) as it appears in the 1977 Cumulative Supplement to Volume 3B of the General Statutes is amended by striking out of line 1 the words and figures “thirty-five dollars (\$35.00)” and by inserting in lieu thereof the words and figures “forty-four dollars (\$44.00)”.

Sec. 4. G.S. 120-3.1(a)(4) as it appears in the 1977 Cumulative Supplement to Volume 3B of the General Statutes is amended by striking out of line 1 the words and figures “thirty-five dollars (\$35.00)” and by inserting in lieu thereof the words and figures “forty-four dollars (\$44.00)”.

Sec. 5. G.S. 147-11 as it appears in the 1978 Replacement Volume 3C of the General Statutes is amended by striking out of line 3 the words and figures “forty-five thousand dollars (\$45,000)” and inserting in lieu thereof the words and figures “forty-seven thousand seven hundred dollars (\$47,700)”.

Sec. 6. Funds for the salary increase for legislators and the Governor in this act shall come from the amount appropriated for the six percent (6%) salary increase for State employees subject to the State Personnel Act as appropriated in Chapter 1136, 1977 Session Laws, Second Session 1979.

Sec. 7. Sections 1 through 4 of this act shall become effective with the convening of the regular session of the 1979 General Assembly. Sections 5 through 7 of this act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 977

CHAPTER 1250

AN ACT TO PROVIDE FUNDS TO THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA FOR RESEARCH AND EXTENSION PROJECTS.

Whereas, the agriculture and agricultural productivity are of fundamental importance to the economy and well-being of all of the citizens of North Carolina, and should be supported by a strong system of agricultural research and extension; and

Whereas, the annual farm sales have now exceeded three billion dollars (\$3,000,000,000), and the value of the State's agricultural and forestry products at the retail level estimated to exceed 10 billion dollars (\$10,000,000,000) per year; and

Whereas, new knowledge and developments derived from research by the North Carolina Agricultural Experiment Station is essential to maintain and increase the level of productivity now attained by our State's farmers; and

Whereas, the information needed to direct farm and community decisions is provided the citizens of our State by the North Carolina Agricultural Extension Service; and

Whereas, agricultural research and extension costs have risen more rapidly than appropriations; and

Whereas, the requests are critically needed to offset inflation and to strengthen and improve programs of research and extension so essential to the undergirding of a strong and expanding agriculture; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund of the State to the Board of Governors of The University of North Carolina the sum of two hundred thousand dollars (\$200,000) for the purpose of conducting research and extension programs.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. B. 980

CHAPTER 1251

AN ACT TO APPROPRIATE THIRTY THOUSAND DOLLARS AS A GRANT-IN-AID TO THE SOUTHWESTERN TECHNICAL INSTITUTE FOUNDATION FOR THE RATTLESNAKE MOUNTAIN CAREER DEVELOPMENT CENTER.

Whereas, at present, there is no firearms training facility in Western North Carolina; and

Whereas, law enforcement agencies which can afford to, send their officers to the Salemburg Justice Academy in Sampson County for this training; and

Whereas, Southwestern Technical Institute Foundation, a tax-exempt, non-profit organization, has begun construction of the Rattlesnake Mountain Career Training Development Center which will include a firearms training facility and a dormitory facility to house law enforcement personnel while staying at the center; and

Whereas, the completed firearms training facility will be completely under the control of Southwestern Technical Institute; and

CHAPTER 1251 Session Laws—1977

Whereas, the facility will have the capacity to serve the needs of approximately 600 law enforcement officers from Western North Carolina counties; and

Whereas, the operation of a firearms training facility in Western North Carolina would reduce transportation expenses, decrease the number of work days lost because of travel time, and increase the number of officers who can obtain firearms training; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The sum of thirty thousand dollars (\$30,000) is appropriated from the General Fund to the Southwestern Technical Institute Foundation for the 1978-79 fiscal year for the completion of the dormitory facility at the Rattlesnake Mountain Career Development Center in Swain County. This sum shall be dispensed to the Southwestern Technical Institute Foundation only after the foundation has furnished proof acceptable to the State Budget Office that sixty thousand dollars (\$60,000) has been raised from non-State sources for the completion of the Rattlesnake Mountain Career Development Center.

Sec. 2. This act shall become effective on July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1510

CHAPTER 1252

AN ACT TO AMEND THE STATE-COUNTY SPECIAL ASSISTANCE FOR ADULTS PROGRAM ESTABLISHED BY G.S. 108-62 TO MAKE COUNTY PARTICIPATION MANDATORY WITH RESPECT TO ELIGIBLE PERSONS IN DOMICILIARY CARE NEEDING SUPPLEMENTAL PAYMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 108-62, as the same appears in Volume 3A of the General Statutes of North Carolina, is hereby amended to read as follows:

“§ 108-62. *Purpose and eligibility.*—Assistance shall be granted under this Part to all persons in domiciliary care needing supplemental payments in accordance with the rules and regulations adopted by the Social Services Commission. Assistance may be granted to certain disabled persons in accordance with the rules and regulations adopted by the Social Services Commission. Nothing in this Part should be interpreted so as to preclude any individual county from operating any program of financial assistance using only county funds.”

Sec. 2. G.S. 108-65, as the same appears in Volume 3A of the 1975 Supplement to the General Statutes of North Carolina, is hereby amended to read as follows:

“§ 108-65. *Participation.*—The State-county special assistance for adults program established by this Part shall be administered by all the county departments of social services under rules and regulations adopted by the Social Services Commission and under the supervision of the Department of Human Resources. Provided that, assistance for certain disabled persons shall be provided solely at the option of the county.”

Sec. 3. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1537 CHAPTER 1253

AN ACT TO APPROPRIATE FUNDS FOR THE EASTERN MUSIC FESTIVAL.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources, in addition to all other funds, the sum of twenty-five thousand dollars (\$25,000) for fiscal year 1978-79 to be used as operating funds by the Eastern Music Festival.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1538 CHAPTER 1254

AN ACT TO APPROPRIATE TWENTY-FIVE THOUSAND DOLLARS TO THE RUTHERFORD COUNTY BICENTENNIAL.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Board of Commissioners of Rutherford County for the fiscal year 1978-79 the sum of twenty-five thousand dollars (\$25,000) to be used to commemorate the bicentennial of Rutherford County.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1540 CHAPTER 1255

AN ACT TO MAKE AN APPROPRIATION TO ENABLE THE DIVISION OF AGING TO TRAIN NURSING HOME COMMUNITY ADVISORY COMMITTEES, SO AS TO IMPLEMENT THE RECOMMENDATIONS OF THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON AGING.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Human Resources, Division of Aging, the sum of forty-two thousand five hundred dollars (\$42,500) for the 1978-79 fiscal year. Such funds shall be used by the division to implement Section 2 of Chapter 897, Session Laws of 1977, so as to provide nursing home community advisory committees with information, guidelines, training, and consultation.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 540

CHAPTER 1256

AN ACT TO ESTABLISH A STATEWIDE SCHOOL HEALTH EDUCATION PROGRAM OVER A TEN-YEAR PERIOD OF TIME.

The General Assembly of North Carolina enacts:

Section 1. Chapter 115, Article 24 of the General Statutes of North Carolina, is hereby amended to add the following new section:

“§ 115-204.1. *School health education program to be developed and administered.*—(a) A comprehensive school health education program shall be developed and taught to pupils of the public schools of this State from kindergarten through 9th grade. This program shall be developed over a 10-year period beginning July 1, 1978.

(b) As used above, ‘comprehensive school health’ includes the subject matter of mental and emotional health, drug and alcohol abuse prevention, nutrition, dental health, environmental health, family living, consumer health, disease control, growth and development, first aid and emergency care, and any like subject matter.

(c) The development and administration of this program shall be the responsibility of each local educational administrative unit in the State, a local school health education coordinator for each county, the State Department of Public Instruction, and a State School Health Education Advisory Committee.

(d) Each existing local educational administrative unit is eligible to develop and submit a plan for a comprehensive school health education program which shall meet all standards established by the State Board of Education, and to apply for funds to execute such plans.

(e) The State Department of Public Instruction shall supervise the development and operation of a statewide comprehensive school health education program including curriculum development, in-service training provision and promotion of collegiate training; learning material review; and assessment and evaluation of local programs in the same manner as for other programs. It is the intent of this legislation that a specific position or positions in Public Instruction shall be assigned responsibilities as set forth in this section.

(f) A State School Health Advisory Committee is hereby established.

(1) The committee shall provide citizen input into the operations of the program; report annually to the State Board of Education on progress in accomplishing the provisions and intent of this legislation; provide advice to the department with regard to its duties under this act; and encourage development of higher education programs which would benefit health education in the public schools.

(2) The committee shall meet as necessary but at least twice annually. It shall select annually a chairperson from among its own membership, each member having an equal vote and the chairperson shall appoint such subcommittees as may be necessary. Members of the committee shall serve without compensation; however, they shall be reimbursed by the Department of Public Instruction for travel and other expenses incurred in the performance of their duties as members of the committee (to the extent that funds are appropriated for this purpose).

(3) The committee shall consist of 17 members: 10 appointed by the Governor, two by the State Board of Education, one by the Speaker of

the House of Representatives, one by the President of the Senate, and three ex officio members: the Chief, Office of Health Education, North Carolina Department of Human Resources; the Chief, State Health Planning and Development Agency, North Carolina Department of Human Resources; and the Superintendent of Public Instruction, or their designates. The Governor's appointees shall be named in the following manner: one physician from a list of three names submitted by the North Carolina Medical Society; one physician from a list of three names submitted by the North Carolina Pediatric Society; one physician from a list of three names submitted by the North Carolina Chiropractic Association; one registered nurse from a list of three names submitted by the North Carolina Nurses' Association; one dentist from a list of three names submitted by the North Carolina Dental Society; one member from a list of three names submitted by the North Carolina Medical Auxiliary; one member from a list of three names submitted by the North Carolina Congress of Parents and Teachers, Inc.; one member from a list of three names submitted by the North Carolina Association for Health, Physical Education, and Recreation; one member from a list of three names submitted by the North Carolina Public Health Association; one member from a list of three names submitted by the North Carolina College Conference on Professional Preparation in Health and Physical Education. The State Board nominees shall represent local school administrative units and shall have been recommended by the Superintendent of Public Instruction. The Speaker's nominee shall be a member of the North Carolina House of Representatives and the President of the Senate's nominee shall be a member of the Senate.

- (4) The appointed members of the advisory committee shall serve for a term of three years; except that in the case of the initial appointments, the representative of the North Carolina Pediatric Society, one of the representatives of a local school administrative unit, the representative of the North Carolina Association for Health, Physical Education, and Recreation, and the member of the North Carolina General Assembly shall be appointed for a term of two years; and the representatives of the North Carolina Nurses' Association, the North Carolina Dental Society, the North Carolina Congress of Parents and Teachers, Inc., and the North Carolina Public Health Association shall be appointed for a term of one year. Each of these computations shall be made as of July 1, 1977. Thereafter, each succeeding term shall be for three years. Appointed members may be reappointed up to a maximum of nine years of service. Vacancies shall be filled in the same manner as original appointments for the balance of the unexpired term."

Sec. 2. There is hereby appropriated to the State Board of Education from the General Fund the sum of two hundred ten thousand dollars (\$210,000) to be expended as follows:

- (1) one hundred ninety-three thousand one hundred thirty dollars (\$193,130) to initiate comprehensive school health education programs in the eight education regions. Funds are to be expended locally for the salary and fringe benefits of the school health education coordinator, instructional

CHAPTER 1256 Session Laws—1977

materials and supplies, office supplies, workshops, travel and subsistence, telephone, postage, and similar expenses;

(2) fourteen thousand three hundred seventy dollars (\$14,370) to maintain and support an additional position to be used as set forth in G.S. 115-204.1(e) and to support in the development and operation of a statewide comprehensive school health education program. Funds are to be expended for the salary and fringe benefits of a school health education consultant. In addition, the funds will be expended for travel and subsistence, educational materials and supplies, telephone, postage, office supplies, local and regional workshops, program evaluation, and similar expenses;

(3) one thousand two hundred fifty dollars (\$1,250) to support the purchasing or preparation, distribution of a K-12 comprehensive health education curricula and teacher guides;

(4) one thousand two hundred fifty dollars (\$1,250) to reimburse members of the State School Health Education Advisory Committee for travel and other expenses incurred in the performance of their duties as members of the advisory committee.

Sec. 3. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 783 CHAPTER 1257

AN ACT TO PROVIDE A COMPREHENSIVE GLAUCOMA AND DIABETES DETECTION, AND A DIABETES CONTROL PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. A new Article is added to Chapter 130 of the General Statutes to read as follows:

"ARTICLE 30.

"Glaucoma and Diabetes Program.

"§ 130-264. *Department of Human Resources to establish program.*—The Department of Human Resources, hereinafter referred to as department, shall establish a program for the detection and control of glaucoma and diabetes which would complement and assist existing community resources. This program shall emphasize detection and control among high risk groups. This program shall also assist those persons who are unable to pay for such services, but will not duplicate payment by other existing program.

"§ 130-265. *Powers and duties of the department.*—The department shall:

(1) provide for education of health care personnel and patients in the detection, control and treatment of glaucoma and diabetes;

(2) develop and expand programs for the detection and control of glaucoma and diabetes including insuring uniform high quality of public clinical services, examinations, treatment, laboratory services, follow-up and evaluation services, and educational services;

(3) provide supplies, equipment, and medication for detection and control of glaucoma and diabetes;

(4) cooperate with and accept assistance from any group or organization for the accomplishment of the purposes of this Article.

"§ 130-266. *Rules and regulations.*—The Department of Human Resources shall develop and adopt policies to implement the provisions of this Article."

Sec. 2. There is appropriated from the General Fund of the State to the Department of Human Resources the sum of twenty-five thousand dollars (\$25,000) for the 1978-79 fiscal year for the establishment and conduct of the program which is authorized by this act. These funds are in addition to all funds appropriated to the Department of Human Resources for any purpose.

Sec. 3. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1367 CHAPTER 1258

AN ACT TO ESTABLISH A WESTERN NORTH CAROLINA OFFICE OF THE DIVISION OF ARCHIVES AND HISTORY, DEPARTMENT OF CULTURAL RESOURCES.

Whereas, there is a growing interest in the preservation of the cultural and historic heritage of Western North Carolina; and

Whereas, numerous individuals, organizations and institutions in the mountain counties of the State are examining, collecting and preserving the history and historic artifacts, objects and buildings in the area; and

Whereas, these individuals, institutions and organizations are now seeking professional advice and assistance in their locale beyond the capability of the Division of Archives and History to deliver; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the 1978-79 fiscal year the sum of one hundred thousand dollars (\$100,000) for the purpose of establishing in Asheville a Western North Carolina office of the Division of Archives and History to provide comprehensive historical services to the western region of the State.

Sec. 2. The Division of Archives and History, Department of Cultural Resources, is authorized to negotiate with the City of Asheville or any other property owner or institution in Asheville for a suitable site for the Western North Carolina office of the Division of Archives and History.

Sec. 3. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1529 CHAPTER 1259

AN ACT TO APPROPRIATE FUNDS FOR THE CLEVELAND COUNTY HISTORICAL MUSEUM.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund the sum of five thousand dollars (\$5,000) to the Cleveland County Historical Museum for the purpose of paying reasonable operating expenses during fiscal year 1978-79.

Sec. 2. This act shall become effective on July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

CHAPTER 1260 Session Laws—1977

H. B. 1552 **CHAPTER 1260**

AN ACT TO APPROPRIATE FUNDS TO THE ADMINISTRATIVE OFFICE OF THE COURTS FOR AN ADDITIONAL DEPUTY CLERK AND CLERICAL EQUIPMENT IN DARE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Administrative Office of the Courts the sum of eight thousand nine hundred sixty dollars (\$8,960) for fiscal year 1978-79, which sum, together with appropriations made by Chapter 802, Session Laws of 1977, and by appropriations made by the 1977 General Assembly, Second Session 1978, is to be used for an additional deputy clerk and clerical equipment in Dare County.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1556 **CHAPTER 1261**

AN ACT TO APPROPRIATE FUNDS TO THE ADMINISTRATIVE OFFICE OF THE COURTS FOR AN ADDITIONAL DEPUTY CLERK AND EQUIPMENT IN THE OFFICE OF CLERK OF SUPERIOR COURT IN HERTFORD COUNTY.

The General Assembly of North Carolina enacts:

Section 1. The sum of eight thousand nine hundred sixty dollars (\$8,960) for fiscal year 1978-79 is hereby appropriated from the General Fund to the Administrative Office of the Courts to be used for an additional deputy clerk and clerical equipment in the office of the Clerk of Superior Court of Hertford County.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1575 **CHAPTER 1262**

AN ACT TO APPROPRIATE FUNDS FOR THE CONSTRUCTION OF A DIVISION OF FOREST RESOURCES HEADQUARTERS BUILDING IN ALLEGHANY COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Natural and Economic Resources, Division of Forest Resources, in addition to all other appropriations, for fiscal year 1978-79, the sum of twenty-eight thousand dollars (\$28,000) to be used to construct an Alleghany County headquarters for said division.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1579

CHAPTER 1263

AN ACT TO APPROPRIATE FUNDS TO THE ADMINISTRATIVE OFFICE OF THE COURTS FOR ADDITIONAL DEPUTY CLERKS OF COURT IN SCOTLAND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Administrative Office of the Courts the sum of seventeen thousand nine hundred twenty dollars (\$17,920) for fiscal year 1978-79 which sum together with appropriations made by Session Laws 1977, Chapter 802, and by appropriations made by the 1977 General Assembly, Second Session 1978, are to be used for additional clerks and clerical equipment to be allocated as follows: two additional deputy clerks for Scotland County.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1581

CHAPTER 1264

AN ACT TO APPROPRIATE FUNDS TO PROVIDE FOR TWO DEPUTY CLERKS OF COURT FOR CALDWELL COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Administrative Office of the Courts the sum of seventeen thousand nine hundred twenty dollars (\$17,920) for the fiscal year 1978-79 to be expended for the salary and clerical equipment for two deputy clerks of court for Caldwell County.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1586

CHAPTER 1265

AN ACT TO APPROPRIATE FUNDS TO THE ADMINISTRATIVE OFFICE OF THE COURTS FOR AN ADDITIONAL DEPUTY CLERK AND CLERICAL EQUIPMENT IN MARTIN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Administrative Office of the Courts the sum of eight thousand nine hundred sixty dollars (\$8,960) for fiscal year 1978-79, which sum, together with appropriations made by Chapter 802, Session Laws of 1977, and by appropriations made by the 1977 General Assembly, Second Session 1978, is to be used for an additional deputy clerk and clerical equipment in Martin County.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

CHAPTER 1266 Session Laws—1977

H. B. 1591

CHAPTER 1266

AN ACT TO APPROPRIATE FUNDS FOR THE AVERY COUNTY HIGH "CLOGGERS" TO DEFRAY THE COST OF PERFORMING AT THE INTERNATIONAL CONGRESS OF THE ARTS AND COMMUNICATIONS.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to Avery County High School the sum of five thousand dollars (\$5,000) for fiscal year 1978-79 to defray the expense of the Avery County High School "Cloggers" performance for the International Congress of the Arts and Communications in San Francisco, California, in July 1978.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1595

CHAPTER 1267

AN ACT TO APPROPRIATE FUNDS FOR THE STAGE PRODUCTION "BLACKBEARD: KNIGHT OF THE BLACK FLAG".

The General Assembly of North Carolina enacts:

Section 1. In addition to any other appropriations there is hereby appropriated from the General Fund to the Department of Cultural Resources for fiscal year 1978-79 the amount of ten thousand dollars (\$10,000) for theater renovation and production costs for the 1978 season production of "Blackbeard: Knight of the Black Flag".

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1608

CHAPTER 1268

AN ACT TO APPROPRIATE FUNDS TO FULLY FUND AN AUTHORIZED ASSISTANT DISTRICT ATTORNEY IN THE SECOND JUDICIAL DISTRICT.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Administrative Office of the Courts the sum of twenty-seven thousand six hundred fifty-three dollars (\$27,653) for the 1978-79 fiscal year to fully fund the third assistant district attorney position for the Second Judicial District authorized by G.S. 7A-41 but not funded in the 1977-79 State budget.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1613

CHAPTER 1269

AN ACT TO APPROPRIATE FUNDS FOR ONE DEPUTY CLERK OF COURT FOR RICHMOND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. In addition to any other appropriations there is hereby appropriated from the General Fund to the Administrative Office of the Courts the sum of eight thousand nine hundred dollars (\$8,900) for the fiscal year 1978-79 to be expended for the salary and equipment for one deputy clerk of court for Richmond County.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1628

CHAPTER 1270

AN ACT TO APPROPRIATE THIRTY-TWO THOUSAND TWO HUNDRED THREE DOLLARS FROM THE GENERAL FUND IN 1978-79 TO PROVIDE A COST-OF-LIVING INCREASE FOR RETIRED CLERKS OF COURT.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated out of the General Fund the sum of thirty-two thousand two hundred three dollars (\$32,203) to provide a four percent (4%) cost-of-living increase for fiscal year 1978-79 in accordance with G.S. 135-5 (o) to members of the Clerks of Court Retirement System who retired prior to July 1, 1977.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1629

CHAPTER 1271

AN ACT TO APPROPRIATE TWENTY-FOUR THOUSAND TWO HUNDRED FIFTY-SIX DOLLARS FROM THE GENERAL FUND IN 1978-79 TO PROVIDE A COST-OF-LIVING INCREASE FOR SOLICITORIAL RETIREES.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated out of the General Fund the sum of twenty-four thousand two hundred fifty-six dollars (\$24,256) to provide a four percent (4%) cost-of-living increase for fiscal year 1978-79 in accordance with G.S. 135-5(o) to members of the Uniform Solicitorial Retirement System who retired prior to July 1, 1977.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1638

CHAPTER 1272

AN ACT TO PROVIDE FOR A STUDY OF NORTH CAROLINA'S PARTICIPATION IN A WORLD'S FAIR IN 1982 AT KNOXVILLE, TENNESSEE.

Whereas, plans are underway for a two hundred million dollar (\$200,000,000) International Exposition in Knoxville, Tennessee, in 1982; and

Whereas, the Exposition is planned around an energy theme; and

Whereas, projections indicate that 15 million persons will visit the World's Fair, many of whom might visit North Carolina since our State is so close by; and

Whereas, President Carter has already approved twenty million dollars (\$20,000,000) for a U. S. pavilion, site preparation of which is to begin this year and construction in 1980; and

Whereas, many persons would be interested to find a pavilion of North Carolina at the World's Fair, to say nothing of the pride that North Carolinians would have in such a pavilion; and

Whereas, such a North Carolina pavilion would not only encourage tourism and economic development of our State, but an energy saving theme would be beneficial to our State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Legislative Services Commission the sum of two thousand dollars (\$2,000) for the fiscal year 1978-79 to fund a special committee to consider North Carolina's participation in the World's Fair (Expo 82) in Knoxville, Tennessee, and to make recommendations to the 1979 General Assembly concerning the need for and benefits of a pavilion representing the people and products of North Carolina and the best method of displaying the energy saving efforts of our State. The Speaker of the House of Representatives shall appoint two members of the committee from the membership of the House and the Lieutenant Governor shall appoint two members of the committee from the membership of the Senate.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1643

CHAPTER 1273

AN ACT TO FULLY FUND MAGISTRATE POSITIONS ALREADY AUTHORIZED FOR MARTIN COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Administrative Office of the Courts the sum of ten thousand two hundred dollars (\$10,200) for the fiscal year 1978-79, in order to fully fund the additional magistrates in Martin County authorized by Chapter 947, Session Laws of 1977.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1653 **CHAPTER 1274**

AN ACT TO FULLY FUND MAGISTRATE POSITIONS ALREADY AUTHORIZED FOR DURHAM COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Administrative Office of the Courts the sum of ten thousand two hundred dollars (\$10,200) for the fiscal year 1978-79, in order to fully fund the additional magistrates in Durham County authorized by Chapter 947, Session Laws of 1977.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1657 **CHAPTER 1275**

AN ACT TO APPROPRIATE FUNDS FOR THE APPLE CHILL CLOGGERS OF CHAPEL HILL TO DEFRAY COST OF APPEARING IN FOLK FESTIVALS IN EUROPE.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Department of Cultural Resources the sum of five thousand dollars (\$5,000) for fiscal year 1978-79 to defray the expense of the Apple Chill Cloggers' appearances at folk festivals in Europe during 1978.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1667 **CHAPTER 1276**

AN ACT TO APPROPRIATE FUNDS TO THE ADMINISTRATIVE OFFICE OF THE COURTS FOR FIVE ADDITIONAL DEPUTY CLERKS AND CLERICAL EQUIPMENT FOR CUMBERLAND COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Administrative Office of the Courts the sum of thirty-eight thousand dollars (\$38,000) for fiscal year 1978-79, which sum, together with appropriations made by Chapter 802, Session Laws of 1977, and by appropriations made by the 1977 General Assembly, Second Session 1978, is to be used for five additional deputy clerks and clerical equipment in Cumberland County.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1674

CHAPTER 1277

AN ACT TO APPROPRIATE TWENTY-THREE THOUSAND TWO HUNDRED THIRTY-FIVE DOLLARS TO THE DEPARTMENT OF AGRICULTURE FOR THE PSEUDORABIES QUALIFICATION PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. The sum of twenty-three thousand two hundred thirty-five dollars (\$23,235) is appropriated from the General Fund to the Department of Agriculture for the 1978-79 fiscal year for the Pseudorabies Qualification Program.

Sec. 2. This act shall become effective on July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1676

CHAPTER 1278

AN ACT RELATING TO THE COMPENSATION AND DUTIES OF THE PRINCIPAL CLERKS OF THE SENATE AND HOUSE OF REPRESENTATIVES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 120-37 is rewritten to read as follows:

"§ 120-37. *Elected officers, salaries, staff.*—(a) At the convening of the first session of the General Assembly following each biennial election of members of the General Assembly, each house shall elect a principal clerk, a reading clerk and a sergeant-at-arms for terms of two years, subject to the condition that each officer shall serve at the pleasure of the house that elected him and shall serve until his successor is elected.

(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary of one hundred twenty-six dollars (\$126.00) per week, plus subsistence at the same daily rate provided for members of the General Assembly, plus mileage at the rate provided for members of the General Assembly for one round trip only from their homes to Raleigh and return. The sergeants-at-arms shall serve during sessions of the General Assembly and at such time prior to the convening of, and subsequent to adjournment or recess of, sessions as may be authorized by the Legislative Services Commission. The reading clerks shall serve during sessions only.

(c) The principal clerks shall be full-time officers. Each principal clerk shall be paid an annual salary of twenty-one thousand two hundred dollars (\$21,200), payable monthly. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and Advisory Budget Commission and shall make appropriate recommendations for changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph.

(d) The Legislative Services Commission may authorize additional full-time staff employees of the office of each principal clerk. The Speaker may assign to the Principal Clerk of the House additional duties for the periods between sessions and during recesses of the General Assembly. The President Pro Tempore of the Senate may assign to the Principal Clerk of the Senate

additional duties for the periods between sessions and during recesses of the General Assembly.

(e) The principal clerks and the sergeants-at-arms may, upon authorization of the Legislative Services Commission, employ temporary assistants to prepare for each legislative session, serve during the session, and perform necessary duties following adjournment.

(f) Following adjournment *sine die* of each session of the General Assembly, each principal clerk shall retain in his office for a period of two years every bill and resolution considered by but not enacted or adopted by his house, together with the calendar books and other records deemed worthy of retention. At the end of two years, these materials shall be turned over to the Division of Archives and History of the Department of Cultural Resources for ultimate retention or disposition.

Sec. 3. This act shall become effective January 1, 1979.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1683

CHAPTER 1279

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF INSURANCE FOR FISCAL YEAR 1978-79 TO EMPLOY THREE ADDITIONAL FIRE AND RESCUE INSTRUCTORS.

The General Assembly of North Carolina enacts:

Section 1. In addition to any and all other appropriations to the Department of Insurance, the sum of seventy-six thousand four hundred seventy-nine dollars (\$76,479) for fiscal year 1978-79 is appropriated from the General Fund to the Department of Insurance for three additional fire and rescue instructors.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1548

CHAPTER 1280

AN ACT TO PERMIT BOARDS OF EDUCATION TO ALLOW SCHOOL BUSES TO BE USED BY THE ELDERLY, SO AS TO IMPLEMENT THE RECOMMENDATIONS OF THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON AGING.

The General Assembly of North Carolina enacts:

Section 1. General Statutes Chapter 115 is amended by adding a new section to read as follows:

"§ 115-183.1. *Use of school buses by senior citizen groups.*—(a) Any county board of education or city board of education may enter into agreements with the governing body of any county, city, or town, or with any State agency, or any agency established or identified pursuant to Public Law 89-73 (The Older Americans Act of 1965), as it is now or may be amended, to provide for the use of school buses to provide transportation for the elderly.

CHAPTER 1280 Session Laws—1977

(b) Each agreement entered into under this section must provide the following:

- (1) that the board of education shall be reimbursed in full for the proportionate share of any and all costs, both fixed and variable, of such buses attributable to the uses of the bus pursuant to the agreement;
- (2) that the board of education shall be held harmless from any and all liability by virtue of uses of the buses pursuant to the agreement;
- (3) that adequate liability insurance is maintained under G.S. 115-53 to insure the board of education, and adequate insurance is maintained to protect the property of the board of education. The minimum limit of liability insurance shall not be less than the maximum amount of damages which may be awarded under the Tort Claims Act, G.S. 143-291. The costs of said insurance shall be paid by the agency contracting for the use of the bus, either directly or through the fee established by the agreement.

(c) Before any board of education shall enter into any agreement under this section, it must by resolution establish a policy for use of school buses by the elderly. The policy must give first priority to school uses under G.S. 115-183 and G.S. 115-53. The resolution must provide for a schedule of charges under this section. Such resolution, if adopted, shall be amended or readopted at least once per year to provide for adjustments to the schedule of charges or to provide for maintaining the same schedule of charges. If the price bid for the service by a private bus carrier is less than the schedule of charges adopted by the board of education, then the board of education may not enter into the agreement.

(d) No board of education shall be under any duty to sign any agreement under this section.

(e) No bus operated under the provisions of this section shall travel outside of the area consisting of the county or counties where the county or city board of education is located and the county or counties contiguous to that county or counties, but not outside of the State of North Carolina.

(f) Before any agreement under this section may be signed the State Board of Education shall adopt a uniform schedule of charges for the use of buses under this section. Such schedule must be approved by the Advisory Budget Commission before becoming effective. Such schedule shall include a charge by the hour and by the mile which shall cover all costs both fixed and variable, including depreciation, gasoline, fuel, labor, maintenance, and insurance. The schedule may be amended by the State Board of Education with the concurrence of the Advisory Budget Commission. The schedule of charges adopted by the local board of education under subsection (c) may vary from the State schedule only to cover changes in wages."

Sec. 2. G.S. 115-183 is amended by adding a new subdivision (7) to read:

"(7) Uses authorized by G.S. 115-183.1."

Sec. 3. G.S. 115-53 is amended by inserting at the end the words "Activity buses may also be used as provided in G.S. 115-183.1."

Sec. 4. G.S. 20-217 is amended by striking "(including privately owned buses transporting children)", and inserting in lieu thereof "(including privately owned buses transporting children and school buses transporting elderly persons under G.S. 115-183.1)".

Sec. 5. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1648 CHAPTER 1281

AN ACT TO DESIGN, PLAN AND IMPLEMENT A STATEWIDE PUBLIC FM RADIO NETWORK.

The General Assembly of North Carolina enacts:

Section 1. Of the five million eight hundred thirty-eight thousand seven hundred dollars (\$5,838,700) appropriated in Section 4 of the fiscal year 1978-79 Current Operations and Capital Improvements Budget Bill, (enacted by Chapter 1136 of the 1977 Session Laws), to the Board of Governors of The University of North Carolina for Expansion of the Educational Television Network, one hundred twenty-five thousand dollars (\$125,000), which was originally designated for purchase and installation of antennas, shall be used to design, plan, and insofar as possible implement a statewide public FM radio network.

Sec. 2. Not later than March 1, 1979, The University of North Carolina General Administration is directed to report to the General Assembly the progress in the construction and operation of the statewide public FM radio network.

Sec. 3. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1555 CHAPTER 1282

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF CULTURAL RESOURCES FOR STABILIZATION, ARTIFACT PURCHASE, AND RESTORATION AND CONTINUED RESEARCH FOR HISTORIC SPENCER SHOPS STATE HISTORIC SITE.

Whereas, the development of transportation has made an immeasurable contribution to all the citizens of the State; and

Whereas, the 1977 General Assembly appropriated funds to start the planning for the development of the historic site; and

Whereas, the first phase of the planning is complete and Southern Railway has donated land and the historic structures; and

Whereas, the buildings need some stabilization and continued research is needed; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Cultural Resources for fiscal year 1978-79, in addition to all other appropriations to that department, the sum of fifty thousand dollars (\$50,000) in order to begin stabilization of the historic structure, for artifact purchases and restoration, and for continuing research of Historic Spencer Shops State Historic Site, Spencer, North Carolina.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

CHAPTER 1283 Session Laws—1977

H. B. 1566 **CHAPTER 1283**

AN ACT TO APPROPRIATE FUNDS TO THE ADMINISTRATIVE OFFICE OF THE COURTS FOR AN ADDITIONAL DEPUTY CLERK OF COURT IN ROBESON COUNTY.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the Administrative Office of the Courts the sum of eight thousand nine hundred sixty dollars (\$8,960) for fiscal year 1978-79 which sum together with appropriations made by Session Laws 1977, Chapter 802 and by appropriations made by the 1977 General Assembly, Second Session 1978, are to be used for an additional clerk and clerical equipment to be allocated as follows: one additional deputy clerk for Robeson County.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1580 **CHAPTER 1284**

AN ACT TO APPROPRIATE FUNDS FOR THE RESTORATION OF THE OCTAGON-SHAPED HOUSE IN HYDE COUNTY.

Whereas, the Octagon-Shaped House in Hyde County was built in 1850; and

Whereas, the house is an example of unique architecture and is one of only three of its kind in eastern North Carolina; and

Whereas, the citizens of Hyde County wish to preserve this unusual example of history; and

Whereas, the house will be used as an area cultural center for the Hyde County Historical Society and will also be used as a library; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Division of Archives and History, Department of Cultural Resources, for the fiscal year 1978-79 the sum of fifty thousand dollars (\$50,000) which will be available to the Hyde County Historical Society for the purpose of (1) research, (2) planning, and (3) restoration of the Inkwell (Octagon) House, provided a like amount is raised by the Hyde County Historical Society. Funds appropriated in this act shall be expended only in accordance with G.S. 121-11 and G.S. 143-31.2.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1596

CHAPTER 1285

AN ACT TO APPROPRIATE FUNDS FOR DESIGN AND FEASIBILITY STUDIES AT THE WILMINGTON TERMINAL OF THE NORTH CAROLINA STATE PORTS AUTHORITY.

Whereas, an ever increasing degree of cargo is being shipped by container; and

Whereas, the volume of container shipping at the Wilmington terminal is outstripping the capacity of the present port facilities, as well as the container facilities under construction; and

Whereas, market studies project significant growth for container shipping over the next several years and beyond; and

Whereas, the majority of current container traffic and shipping revenue from within North Carolina is going to adjacent competitive ports because of inadequate facilities at our own ports; and

Whereas, those competitive ports are expanding their facilities even further; and

Whereas, expanded container facilities at Wilmington are essential to the maintenance of a competitive position with southeastern Atlantic ports and the desire to keep revenue generated from North Carolina shippers within the State; and

Whereas, the health of the State's ports, the State's efforts for economic development and its position in the international shipping community are closely linked; and

Whereas, because of the long lead time, design studies for new facilities must begin immediately in order to bring expansion facilities on line at the earliest possible date; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Commerce, North Carolina State Ports Authority, for the fiscal year 1978-79 the sum of one hundred fifteen thousand dollars (\$115,000) for:

A) Berth C - Design Update	\$ 65,000
B) North Expansion Area - Feasibility Studies	<u>100,000</u>
Subtotal	\$165,000
Less Ports Authority Receipts	\$ 50,000
Total General Fund	\$115,000

Sec. 2. This act shall become effective on July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1597

CHAPTER 1286

AN ACT TO FUND TECHNICAL POSITIONS AT THE THREE NORTH CAROLINA MARINE RESOURCES CENTERS WHICH WILL BE ELIMINATED AT THE EXPIRATION OF A FEDERAL GRANT.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Administration the sum of seventy-five thousand dollars (\$75,000) for the fiscal year 1978-79 for salaries of new permanent positions at the three North Carolina Marine Resources Centers at Fort Fisher, Pine Knoll Shores and Manteo.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1621

CHAPTER 1287

AN ACT TO PROVIDE AN ADDITIONAL PARK RANGER FOR THE LAKE WACCAMAW STATE PARK.

The General Assembly of North Carolina enacts:

Section 1. The sum of sixteen thousand three hundred one dollars (\$16,301) is appropriated for the 1978-79 fiscal year from the General Fund to the Department of Natural Resources and Community Development to provide one additional park ranger and related operating expenses at the Lake Waccamaw State Park. These funds shall be in addition to all other funds appropriated to the department for the 1978-79 fiscal year.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1644

CHAPTER 1288

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF ADMINISTRATION FOR THE RENOVATION AND DEVELOPMENT OF THE HISTORIC SEABOARD COAST LINE BUILDING.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Administration for fiscal year 1978-79, in addition to all other funds, the sum of thirty thousand dollars (\$30,000) to be used for the renovation and development of the Seaboard Coast Line Building.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1663

CHAPTER 1289

AN ACT TO APPROPRIATE FUNDS TO CONTINUE THE LAND RECORDS MANAGEMENT PROGRAM ESTABLISHED BY THE 1977 GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Department of Administration, in addition to all other funds appropriated, the sum of twenty-five thousand dollars (\$25,000) for the 1978-79 fiscal year. This appropriation shall be for the purpose of aiding in the implementation of Chapter 932 of the 1977 Session Laws, which act established the Land Records Management Program in the Department of Administration.

Sec. 2. There is hereby appropriated from the General Fund to the Department of Administration, in addition to all other funds appropriated, the sum of seventy-five thousand dollars (\$75,000) for the 1978-79 fiscal year. This appropriation shall be for the purpose of implementing the provisions of Chapter 1099 of the 1977 Session Laws, which act established a statewide program of assistance for improvement of county land records. This appropriation shall be subject to all conditions, limitations and requirements set forth in Chapter 1099 of the 1977 Session Laws.

Sec. 3. This act shall become effective on July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1647

CHAPTER 1290

AN ACT TO APPROPRIATE AN ADDITIONAL FIFTEEN THOUSAND DOLLARS FOR THE CONSTRUCTION OF A TWENTY FOOT BY EIGHTY FOOT MODULAR BUILDING AT THE MOUNTAIN HORTICULTURAL RESEARCH STATION IN FLETCHER.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund through the North Carolina Agricultural Experiment Station at North Carolina State University, to the Department of Horticultural Science, Plant Pathology and Zoology, in addition to all prior appropriations, a sum of fifteen thousand dollars (\$15,000) for the 1978-79 fiscal year for the construction of a 20 foot by 80 foot modular building at the Mountain Horticultural Crops Research Station in Fletcher as detailed in Section 1 of Session Laws 1977, Chapter 1067.

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1655

CHAPTER 1291

AN ACT TO ESTABLISH A COMMISSION TO PLAN THE DEVELOPMENT OF AN OPTIONAL PREPAID HEALTH PLAN IN THE RESEARCH TRIANGLE AREA, AND TO MAKE AN APPROPRIATION, SO AS TO IMPLEMENT THE RECOMMENDATIONS OF THE LEGISLATIVE COMMISSION ON MEDICAL COST CONTAINMENT.

The General Assembly of North Carolina enacts:

Section 1. There is hereby established the Commission on Prepaid Health Plans.

Sec. 2. Duties of the commission. The duties of the commission shall be:

- (1) The development of a prepaid health plan option to serve teachers and State employees: The plan shall include:
 - a. The number of State employees and teachers to be served by the plan;
 - b. The range of health services to be provided by the prepaid health plan;
 - c. The cost of a prepaid option to the State and the employees based on an actuarial estimate; and
 - d. The health care providers in North Carolina who would participate in a prepaid health care plan. The commission shall consider the special needs of geographical areas of the State, the distribution of medical services making its recommendations, and the type of medical organization that could provide benefits under prepaid health care in making its recommendations for provider participation; and
 - e. The coordination of the State's prepaid option with other such plans available to the public.
- (2) The development of a pilot prepaid plan in the Research Triangle area to be available to teachers and State employees on an optional basis. The services of the pilot project shall also be available to private and federal employees. In carrying out its duties, the commission is authorized to receive private and public funds.
- (3) To review other prepaid plans in the public and private sector. It may also visit such plans as part of its investigations and invite representatives and consultants to North Carolina.

Sec. 3. Organization of the commission.

- (a) The commission shall consist of fifteen members appointed in the following manner:
 - (1) Three shall be appointed by the President of the Senate from that body; and
 - (2) Three members shall be appointed by the Speaker of the House of Representatives from that body; and
 - (3) Nine members shall be appointed by the Governor. The Governor is requested to appoint persons generally representative of the following groups:
 - a. Providers of health care such as the North Carolina Medical Society and the North Carolina Hospital Association;
 - b. Teachers and State employees;
 - c. Health insurers;
 - d. Consumers; and

e. Private industry.

The commission members shall be appointed within 30 days of ratification of this act and shall serve until termination of the commission.

(b) If a vacancy occurs in the membership of the commission, it shall be filled by action of the officer or group who made the original appointment, and the person then appointed shall serve for the remainder of the term of the member whom he succeeds.

(c) The commission shall select its chairman from its membership at its first regular meeting.

Sec. 4. Staff support for the commission. In executing its duties, the commission is authorized to hire such professional assistance and secretarial support as it deems necessary. Commission members are authorized to receive subsistence and mileage at the statutory rates in lieu of compensation.

Sec. 5. Appropriations to the commission. There is hereby appropriated from the General Fund to the Department of Administration for the Commission on Prepaid Health Plans the sum of fifteen thousand dollars (\$15,000) for fiscal year 1978-79. These funds shall be used in the performance of the duties set forth in this act.

Sec. 6. Reports by the commission. The commission shall file an interim report with the Governor, the President of the Senate, and the Speaker of the House of Representatives by April 1, 1979. The Commission shall file its final report with the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 1980.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1664

CHAPTER 1292

AN ACT TO APPROPRIATE FIVE THOUSAND DOLLARS TO THE LEGISLATIVE RESEARCH COMMISSION FOR THE STUDY OF A UNIFORM AND EQUITABLE SALARY SYSTEM FOR PAYING ALL PUBLIC SCHOOL EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. There is hereby appropriated from the General Fund to the Legislative Research Commission in fiscal year 1978-79 five thousand dollars (\$5,000) for the study of a uniform and equitable salary system for paying all public school personnel paid from State funds, including both professional and support personnel. It is the intent of the General Assembly that this study be applicable to the following categories of personnel to the extent that the positions are supported from State funds: superintendents, associate and assistant superintendents, finance officers, principals, assistant principals, supervisors, classroom teachers, occupational teachers, school psychologists, guidance counselors, aides, social workers, clerical assistants, nursing personnel, school food service personnel, transportation, supervisors, transportation mechanics, property and cost clerks, maintenance personnel, and custodial personnel.

Sec. 2. This act shall become effective on July 1, 1978.

CHAPTER 1292 Session Laws—1977

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1666

CHAPTER 1293

AN ACT TO AMEND CHAPTER 135 OF THE GENERAL STATUTES TO ALLOW CERTAIN RETIRED CLERKS OF SUPERIOR COURT TO TRANSFER TO THE UNIFORM CLERKS OF SUPERIOR COURT RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. Article 4B of Chapter 135 of the General Statutes is hereby amended by adding a new section to follow G.S. 135-85 and to be numbered G.S. 135-86 and to read as follows:

“§ 135-86. *Transfer of retirees.*—Any retired clerks of superior court of the General Court of Justice who retired prior to July 1, 1975, with 30 years or more of creditable service, may elect to have their retirement accounts transferred from the Teachers’ and State Employees’ Retirement System to the Uniform Clerks of Superior Court Retirement System. Any retired clerks of superior court whose retirement accounts are transferred under this provision shall be entitled to the benefits to which they would have been entitled had they retired on the benefit formula provided in the Uniform Clerks of Superior Court Retirement System.”

Sec. 2. The Board of Trustees of the Teachers’ and State Employees’ Retirement System is hereby directed to transfer assets from the Pension Accumulation Fund of the Teachers’ and State Employees’ Retirement System to the Pension Accumulation Fund of the Uniform Clerks of Superior Court Retirement System, to the extent of the reserves previously set aside to fund the benefits of transferred retired clerks of superior court as determined by the actuary, to partially offset the cost of the benefits provided under the Uniform Clerks of Superior Court Retirement System.

Sec. 3. There is hereby appropriated for the fiscal year beginning July 1, 1978, from the General Fund to the Uniform Clerks of Court Retirement System, Department of State Treasurer, the sum of eight thousand seven hundred sixty-one dollars (\$8,761) for the purpose of carrying out this act.

Sec. 4. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1671

CHAPTER 1294

AN ACT TO APPROPRIATE FIVE THOUSAND DOLLARS FROM THE GENERAL FUND TO THE LEGISLATIVE RESEARCH COMMISSION TO STUDY RETIREMENT COVERAGE FOR STATE EMPLOYEES CLASSIFIED AS TEMPORARY EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund the sum of five thousand dollars (\$5,000) for the 1978-79 fiscal year to the Legislative Research Commission to study the need for retirement coverage for State temporary employees. This study shall include those employees now classified as permanent employees who were previously classified as temporary employees.

The Legislative Research Commission shall report to the 1979 Session of the General Assembly.

Sec. 2. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1672 CHAPTER 1295

AN ACT TO PROVIDE FUNDS TO PROVIDE FOR MORE EFFECTIVE TEACHING OF CITIZENSHIP, THE FREE ENTERPRISE SYSTEM, AND LOCAL GOVERNMENT IN THE PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1. There is appropriated from the General Fund to the State Board of Education the sum of seventy-five thousand dollars (\$75,000) to provide funds to assure more uniform and comprehensive instruction in citizenship education, the free enterprise system, and the processes of local government. The funds may be used for in-service education, materials, and other support services impacting directly on teachers and students.

Sec. 2. These funds shall be used in accordance with policies and rules to be developed by the State Board of Education.

Sec. 3. This act shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1693 CHAPTER 1296

AN ACT TO AMEND G.S. 113-109(g), RELATING TO THE POSSESSION OF COUGARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113-109(g), as the same appears in the 1978 Replacement Volume 3A of the General Statutes, is amended by adding thereto the following:

"The provisions of this subsection shall not apply to any person who had in his possession on June 29, 1977, any cougar (*felis concolor*) providing that person does not keep a cougar in a municipality that has an ordinance on this subject."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1696 CHAPTER 1297

AN ACT TO DISQUALIFY THE SALE OF LAND UNDER THREAT OF THE EXERCISE OF THE POWER OF EMINENT DOMAIN AS COMPETENT EVIDENCE OF THE TRUE VALUE OF COMPARABLE LAND.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-283 is amended by adding a new sentence at the end to read: "For the purposes of this section, the acquisition of an interest in land by an entity having the power of eminent domain with respect to the interest acquired shall not be considered competent evidence of the true value in money of comparable land."

Sec. 2. This act shall become effective for tax years beginning January 1, 1979.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. B. 1656

CHAPTER 1298

AN ACT TO PERMIT INDIVIDUAL TAXPAYERS TO DESIGNATE ON THEIR INCOME TAX RETURNS THE SUM OF ONE DOLLAR TO BE PAID TO THE POLITICAL PARTY OF THEIR CHOICE.

The General Assembly of North Carolina enacts:

Section 1. Article 4 of Chapter 105 of the General Statutes is hereby amended by adding thereto a new section, G.S. 105-159.1, to read as follows:

"§ 105-159.1. *Designation of tax by individual to political party.*—(a) Every individual whose income tax liability for the taxable year is one dollar (\$1.00) or more may designate on his income tax return that one dollar (\$1.00) of the amount of tax paid by him to the Department of Revenue which shall thereafter be paid by the Secretary of Revenue, in the manner hereinafter prescribed, to the State Treasurer for the use of the political party designated by the taxpayer. Where any taxpayer elects to so designate but does not specify a particular political party, such funds shall thereafter be distributed, in the same manner as all other funds authorized by this section, to all political parties as defined herein upon a pro rata basis according to their respective party voter registrations. For purposes of this section, political party shall mean a political party which at the last preceding general State election received at least ten percent (10%) of the entire vote cast in the State for Governor, or for presidential electors, or a group of voters who by July 1 of the preceding calendar year, by virtue of a petition as a new political party, had duly qualified as a new political party within the meaning of Chapter 163 of the General Statutes of North Carolina.

(b) For each quarterly period beginning January 1, 1978, and for each quarterly period thereafter, on or before the last day of the month following the close of each quarterly period, the Secretary of Revenue shall remit all funds so designated above collected during the preceding quarter to the State Treasurer who shall thereafter deposit them in an interest bearing account to be known as the North Carolina Election Campaign Fund. Any interest earned on funds so deposited shall be credited to the political party for which said funds were designated. A report to the State Treasurer, State Board of Elections and each State party chairman shall accompany each such remittance, and shall detail the amount of funds forwarded, the cumulative total of funds forwarded to date for the year, and an estimate of the probable total amount to be collected and forwarded for that calendar year.

(c) Notwithstanding the total amount of money actually collectively designated by taxpayers to be forwarded to the State Treasurer, on behalf of any one particular political party, for any taxable year, any designated sums to one particular party in excess of three hundred thousand dollars (\$300,000) shall not be remitted to the State Treasurer, but shall instead be placed in the General Fund of the State.

(d) The Secretary of Revenue shall amend the income tax return in order that all taxpayers desiring to make the political contributions authorized herein

shall do so by designating same on the front face of the tax return immediately above the signature line. The line of authorization for such designation shall be color contrasted with the color scheme of the remainder of the income tax return. Such return, or accompanying explanatory instruction, shall readily indicate that any such designations neither increase nor decrease an individual's tax liability."

Sec. 2. Chapter 163 of the General Statutes of North Carolina is hereby amended by adding thereto a new Article 22B to be entitled "Appropriations from the North Carolina Election Campaign Fund" and to read as follows:

"ARTICLE 22B.

**"Appropriations from the North Carolina
Election Campaign Fund.**

"§ 163-278.41. *Appropriations in general election years and other years.*—(a) Following the conclusion of the last primary or nominating convention held by a political party in a general election year in which a presidential election is held, the State chairman of that political party may apply to the State Treasurer for the disbursement of all funds deposited on behalf of such party in the North Carolina Election Campaign Fund. Upon receipt of such application, the State Treasurer shall forthwith, and every 30 days thereafter, pay over to said chairman all funds currently held by him on behalf of said chairman's political party, but provided that all such payments shall cease 30 days after the State Board of Elections has certified all of the results of the general election to the Secretary of State. Additionally and upon receipt of such application, the State Treasurer shall pay over to the said chairman all funds currently held by the State Treasurer in the 'Presidential Election Year Candidates Fund' of that party, which funds shall be allocated and disbursed during the presidential election year among the candidates qualified therefor by the same procedure as the funds received from the North Carolina Campaign Election Fund are allocated among the candidates qualified therefor. Any remaining funds of the political party in the hands of the State Treasurer shall thereafter be held by him until eligible for distribution pursuant to this section.

(b) Following the conclusion of the last primary or nominating convention held by a political party in a general election year in which there is not a presidential election, the State chairman of the political party may apply to the State Treasurer for the disbursement of all funds deposited on behalf of such party in the North Carolina Election Campaign Fund. Upon receipt of such application, the State Treasurer shall forthwith, and every 30 days thereafter, pay over to said chairman all funds currently held by him on behalf of said chairman's political party provided that all such payments to the said chairman shall cease 30 days after the State Board of Elections has certified all of the results of the general election to the Secretary of State. Any remaining funds of the political party in the hands of the State Treasurer shall thereafter be held by him until eligible for distribution pursuant to this section.

(c) In each year in which no general election is held, each State chairman of a political party on behalf of which funds have been deposited in the North Carolina Election Campaign Fund may, on or between August 1 and September 1 thereof, apply to the State Treasurer for payment of an amount not to exceed fifty percent (50%) of the then available funds credited to the account of his party. Upon receipt of such application, the State Treasurer shall pay over to said State chairman an amount not to exceed fifty percent (50%) of the then

CHAPTER 1298 Session Laws—1977

available funds credited to the account of his party. Additionally and upon receipt of such application, the State Treasurer shall place fifty percent (50%) of the said available funds in a separate interest bearing account to be known as the 'Presidential Election Year Candidates Fund of the (name of the party) Party' to be disbursed in accord with the provisions of subsection (a) above. Any remaining funds of the political party in the hands of the State Treasurer shall thereafter be held by him until eligible for distribution pursuant to this section. Any interest earned on the funds deposited by the State Treasurer in such Presidential Election Year Campaign Fund shall be credited thereto.

“§ 163-278.42. *Distribution of campaign funds; legitimate expenses permitted.*—(a) In a general election year in which a presidential election is held, every State chairman of a political party shall disburse fifty percent (50%) of all funds received from the North Carolina Campaign Election Fund to that political party. The remaining fifty percent (50%) of such funds shall be allocated to individual candidates for Governor, Lieutenant Governor, United States Senator, United States House of Representatives, Council of State, North Carolina Supreme Court and North Carolina Court of Appeals who have opposition in the general election. In the event a candidate does not decline such funds as are allocated to him, the State Chairman shall forthwith disburse such funds to such candidate.

(b) In a general election year in which there is not a presidential election, every State chairman of a political party shall disburse fifty percent (50%) of all funds received from the North Carolina Campaign Election Fund to that political party. The remaining fifty percent (50%) of such funds shall be allocated to individual candidates for Governor, Lieutenant Governor, United States Senator, United States House of Representatives, Council of State, North Carolina Supreme Court and North Carolina Court of Appeals who have opposition in the general election. In the event a candidate does not decline such funds as are allocated to him, the State Chairman shall forthwith disburse such funds to such candidate.

(c) In each year in which no general election is held, every State chairman of a political party shall disburse all funds received from the North Carolina Campaign Election Fund to that political party.

(d) The allocation of all funds to be allocated and disbursed to the individual candidates who are qualified to receive such funds shall be made by a committee composed of the State chairman of the political party, the State Treasurer of the political party who shall serve as an ex officio member, and the members of that political party who occupy the following offices: Governor, Lieutenant Governor, United States Senate, United States House of Representatives, and Council of State, provided however, that in the event the incumbent is not the nominee of the party for that office in that particular general election then the nominee and not the incumbent, shall serve on this committee. The State chairman shall serve as chairman of this committee. The allocation of funds among the several eligible candidates shall be determined solely in the discretion of the committee and such shall be disbursed by the State chairman of that political party only to the treasurer of a candidate or political committee. In the event that any candidate declines in whole or in part any funds allocated to him or disbursed to him or fails to expend the same within 30 days following the general election, such funds shall revert to or be paid over to the political party of such candidate.

(e) Funds distributed from the North Carolina Campaign Election Fund or from the "Presidential Election Year Candidates Fund" of a political party shall only be expended for legitimate campaign expenses. By way of illustration but not by way of limitation, the following are examples of legitimate campaign expenses:

- (1) radio, television, newspaper, and billboard advertising for and on behalf of a political party or candidate;
- (2) leaflets, fliers, buttons, and stickers;
- (3) campaign staff salaries, provided each staff member is listed by name and by the amount paid as salary and the amount paid as campaign expense reimbursement;
- (4) travel expenses, lodging and food for candidate and staff;
- (5) party headquarters operations related to upcoming general elections, including the purchase, maintenance and programming of computers to provide lists of voters, party workers, officers, committee members and participants in party functions, patterns of voting and other data for use in general election campaigns and party activities and functions prior thereto, the establishment and updating computer file systems of voter registration lists, State, district, county and precinct officers and committee member lists, party clubs or organization lists, the organizing of voter registration, fund raising and get-out-the-vote programs at the county level when conducted by State party personnel, and the preparation of reports required to be filed by State and federal laws and systems needed to prepare the same and keep records incident thereto.

(f) All monies and funds previously designated by taxpayers being held by the North Carolina Secretary of Revenue and being held by the North Carolina State Treasurer which monies and funds have not been disbursed or delivered to a political party as of the date of the ratification of this act when disbursed shall be allocated by the State Chairman of the political party as follows: sixty-two and one-half percent (62-1/2%) of such funds to the political party for legitimate general election campaign expenditures; thirty-seven and one-half percent (37-1/2%) to the eligible candidates as determined by the committee established under this Article.

(g) It shall be unlawful for any person, candidate, political committee or political party to use either directly or indirectly any part of funds distributed from the North Carolina Campaign Election Fund or the Presidential Election Year Candidates Fund of any political party for the support or assistance either directly or indirectly of any candidate in a primary election, for support or assistance relating to the selection of a candidate at a political convention or by the executive committee of a party, for the payment or repayment of any debt or obligation of whatsoever kind or nature incurred by any person, candidate or political committee in a primary election, the selection of a candidate at a political convention or by the executive committee of a party, or for the support, promotion or opposition of a national, State or local referendum, bond election or constitutional amendment.

"§ 163-278.43. *Report each year to State Board of Elections; suspension of disbursements; willful violations a misdemeanor.*—(a) The State chairman of each political party and the treasurer of each candidate or political committee receiving funds from the North Carolina Campaign Election Fund or the Presidential Election Year Candidates Fund or both shall maintain a full and

complete record of their receipts and any and all subsequent expenditures and disbursements thereof, and such shall be substantiated by any records, receipts, and information that the Executive Director of the State Board of Elections shall require. Such record shall be centrally located and shall be readily available at reasonable hours for public inspection. Treasurers of political committees and candidates shall maintain all such funds received from the North Carolina Campaign Election Fund or a Presidential Election Year Candidates Fund or both in a separate account, and shall not allow the same to be commingled with the funds from any other source.

(b) By December 31 of each year, the State chairman of each political party receiving funds from the North Carolina Campaign Election Fund or a Presidential Election Year Candidates Fund and the treasurer of all other political committees or candidates receiving any such funds in the 12 preceding months shall file with the State Board of Elections an itemized statement reporting all receipts, expenditures and disbursements from the date of the last report and attached to such report shall be the verification of such chairman or treasurer that all such funds received were expended in accordance with the provisions of this Article. If the Executive Secretary of the State Board of Elections determines and finds as a fact that any such funds were not disbursed or expended in accordance with this Article, he shall order such political party, political committee or candidate to reimburse the amount improperly expended or disbursed to the General Fund of the State and such political party, political committee or candidate shall not receive further disbursements from the North Carolina Campaign Election Fund or a Presidential Election Year Candidates Fund until such reimbursement has been accomplished in full. A copy of any such order shall be forwarded to the State Treasurer, which shall constitute notice to him to suspend further disbursements from the campaign fund.

"§ 163-278.44. *Crime; punishment.*—Any individual person, candidate, political committee, or treasurer who willfully and intentionally violates any of the provisions of this Article, shall be guilty of a misdemeanor and shall be fined not more than one thousand dollars (\$1,000) if an individual, and not more than five thousand dollars (\$5,000) if a person other than an individual, or imprisoned for not more than one year, or be both fined and imprisoned.

"§ 163-278.45. *Definitions.*—The terms 'candidate', 'expend', 'individual', 'person', 'political committee', and 'treasurer' as used in this Article shall be as defined in G.S. 163-278.6."

Sec. 3. This act shall become effective with respect to taxable years beginning on or after January 1, 1978, and shall expire on December 31, 1981.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

RESOLUTIONS

S. R. 918

RESOLUTION 100

A JOINT RESOLUTION RELATING TO BILLS WHICH MAY BE CONSIDERED IN THE 1978 ADJOURNED SESSION OF THE GENERAL ASSEMBLY.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The 1978 adjourned session of the General Assembly may consider, in addition to other matters properly before it, the following:

1. A bill to be entitled An Act to Extend the Life of the Income Tax Check-off for Political Campaign Funds.

2. A bill to be entitled An Act to Amend the State Personnel Act with Respect to Certain Individual Employees Privacy Provisions.

3. A bill to be entitled An Act to Make Certain Technical and Conforming Changes and Amendments to The Criminal Procedures Act (1977 Session Laws Chapter 711).

4. A bill to be entitled An Act to Reenact and Revise the Laws Relating to Indian Tribes Inadvertently Repealed by the 1977 Session of the General Assembly.

5. A bill to be entitled An Act to Amend the State Personnel Act with Respect to Merit Salary Increments.

6. A bill to be entitled An Act to Provide a Certificate of Need Law so as to Implement the Recommendations of the Legislative Commission on Medical Cost Containment.

7. A bill to be entitled An Act to Amend the Constitution of North Carolina to Empower the General Assembly to make a Certificate of Need Law for Certain Health Care Facilities so as to Implement the Recommendations of the Legislative Commission on Medical Cost Containment; and An Act to Require the Licensing of Ambulatory Surgical Facilities, so as to Implement the Recommendations of the Legislative Commission on Medical Cost Containment.

8. A bill to be entitled An Act to Clarify 1977 Amendment to G.S. 50-6 and to Validate Irregular Divorces Entered Under Its Proviso.

9. A bill to be entitled A Joint Resolution Providing for Joint Sessions of the Senate and House Committees on Utilities to Consider the Governor's Nomination to the Utilities Commission, and Providing for a Joint Session of the Senate and House of Representatives to Act on Confirmation of Nomination made by the Governor to Membership on the North Carolina Utilities Commission.

10. A bill to be entitled An Act to Amend Chapter 53 of the General Statutes relating to Confidentiality of Certain Bank Records and to Expand the Authority of the Banking Commission to Accept Independent Audits and Federal Agency Audits of Banking Institutions.

Resolutions—1977

11. A bill to be entitled An Act to Continue the Law Enforcement Officers Liability Insurance Study Commission.

12. A bill to be entitled An Act to Make Technical Corrections in Chapter 787 of the 1977 Session Laws, the Speedy Trial Act.

Sec. 2. The 1978 adjourned session of the General Assembly may consider, in addition to other matters properly before it, all local bills filed for introduction in either house not later than 5:00 p.m., Friday, June 2, 1978, provided that each local bill bears a certificate, signed by the principal sponsor, stating that (a) no public hearings will be required on the bill, (b) the bill is noncontroversial, and (c) the bill is approved for introduction by every member of the Senate and House of Representatives whose district includes the local area to which the bill applies.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 1st day of June, 1978.

S. R. 966

RESOLUTION 101

A JOINT RESOLUTION PROVIDING FOR JOINT SESSIONS OF THE SENATE AND HOUSE COMMITTEES ON UTILITIES TO CONSIDER THE GOVERNOR'S NOMINATION TO THE UTILITIES COMMISSION, AND PROVIDING FOR A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES TO ACT ON CONFIRMATION OF NOMINATION MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION.

Whereas, under the provisions of G.S. 62-10 nominations made by the Governor to fill vacancies in the membership of the North Carolina Utilities Commission are subject to confirmation by the General Assembly in joint session; and

Whereas, a vacancy on the Utilities Commission has occurred by reason of the resignation of a former member; and

Whereas, the Governor has nominated Edward B. Hipp to fill the vacancy subject to confirmation by the North Carolina General Assembly;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Senate Committee on Public Utilities and Energy and the House Committee on Public Utilities shall, in joint session, consider the nominee of the Governor for such vacancy, if the committees deem such action appropriate, and shall report their recommendations developed in joint session to a joint session of the Senate and House of Representatives.

Sec. 2. The Senate and House of Representatives shall meet in the House Chamber in joint session on June 8, 1978, to receive the report of their committees and for the purpose of voting on confirmation of the appointment of the Governor to fill such existing vacancy if the two houses deem such action appropriate.

Sec. 3. In any joint session of the Senate and House of Representatives for the purposes set out in Section 2 of this resolution, the roll of the Senate shall be called and the vote taken, then the roll of the House shall be called and the vote taken on the question of confirmation of the appointee, after which the vote in each house shall be tabulated and announced. Approval of a majority of

Resolutions—1977

each house shall be required for confirmation. Other proceedings in the joint session shall be governed by the Rules of the North Carolina House of Representatives insofar as those rules are applicable.

Sec. 4. In the event of failure of confirmation, the Governor shall be immediately notified of the failure to confirm.

Sec. 5. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1978.

S. R. 970

RESOLUTION 102

A JOINT RESOLUTION AUTHORIZING CONSIDERATION OF A SENATE JOINT RESOLUTION PROVIDING FOR A JOINT SESSION OF THE SENATE AND HOUSE COMMITTEES ON STATE GOVERNMENT TO CONSIDER THE GOVERNOR'S NOMINATIONS TO THE STATE PERSONNEL COMMISSION AND PROVIDING FOR A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES TO ACT ON CONFIRMATION OF NOMINATIONS MADE BY THE GOVERNOR TO THE STATE PERSONNEL COMMISSION.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the 1977 General Assembly, Second Session 1978, may consider a Senate Joint Resolution to be entitled: "A JOINT RESOLUTION PROVIDING FOR A JOINT SESSION OF THE SENATE AND HOUSE COMMITTEES ON STATE GOVERNMENT TO CONSIDER THE GOVERNOR'S NOMINATIONS TO THE STATE PERSONNEL COMMISSION AND PROVIDING FOR A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES TO ACT ON CONFIRMATION OF NOMINATIONS MADE BY THE GOVERNOR TO MEMBERSHIP ON THE STATE PERSONNEL COMMISSION."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 6th day of June, 1978.

S. R. 919

RESOLUTION 103

A JOINT RESOLUTION AUTHORIZING THE CONSIDERATION OF A RESOLUTION COMMENDING THE 1977-78 DUKE UNIVERSITY BASKETBALL TEAM.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the 1977 General Assembly, Second Session 1978, may consider a resolution entitled "A Joint Resolution Commending the 1977-78 Duke Blue Devil Basketball Team for its Outstanding Achievements."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1978.

Resolutions—1977

S. R. 1005

RESOLUTION 104

A JOINT RESOLUTION AUTHORIZING THE CONSIDERATION OF A BILL TO PROVIDE FOR THE ISSUANCE OF SPECIAL PERMITS TO ALLOW THE OPERATION OF PASSENGER BUSES WHICH EXCEED THE STATUTORY WEIGHT LIMITS.

Whereas, the City of Charlotte has purchased 34 passenger buses for delivery in the fall of 1978 and these buses will exceed the present statutory weight limits; and

Whereas, the passenger buses cannot now be purchased which conform with the present statutory weight limits; and

Whereas, Resolution 75, ratified June 30, 1977, provided that "... after ratification of a joint resolution passed by a two-thirds majority in each house, the House of Representatives and Senate may also consider any matters authorized by that resolution.";

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the 1977 General Assembly, Second Session 1978, may consider a bill to be entitled "An Act to Provide for the Issuance of Special Permits to Allow the Operation of Passenger Buses Which Exceed the Statutory Weight Limits."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 12th day of June, 1978.

H. R. 1677

RESOLUTION 105

A JOINT RESOLUTION AUTHORIZING THE CONSIDERATION OF A BILL TO AMEND SESSION LAWS 1977, CHAPTER 843, TO ADD ANSON COUNTY TO THOSE REQUIRING PHYSICIANS AND HOSPITALS TO REPORT CERTAIN WOUNDS, INJURIES AND ILLNESSES.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the 1977 General Assembly, Second Session 1978, may consider a bill to be entitled "An Act to Amend 1977 Session Laws, Chapter 843, to Add Anson County to Those Requiring Physicians and Hospitals to Report Certain Wounds, Injuries and Illnesses".

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of June, 1978.

Resolutions—1977

S. R. 927

RESOLUTION 106

A JOINT RESOLUTION TO EXTEND THE STUDY OF THE PROBLEMS AND NEEDS OF THE AGING POPULATION IN NORTH CAROLINA BY THE LEGISLATIVE RESEARCH COMMISSION, AND TO INCREASE PARTICIPATION ON THE STUDY COMMITTEE, SO AS TO IMPLEMENT THE RECOMMENDATIONS OF THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON AGING.

Whereas, the complexities of the problems facing the aging population in North Carolina in the areas of inflation, rising taxes, increasing costs of medical care, inadequate institutional care facilities, insufficient pension income, and forced early retirement are sizeable and substantial in scope; and

Whereas, other avenues of approach in solving these problems are presently being studied by the Executive Branch of North Carolina State Government and the results of such studies are not yet available for consideration; and

Whereas, the Legislative Research Commission Study Committee on the problems of the aging needs additional time in its deliberations;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. Resolution 86 of the 1977 Session Laws is hereby amended by rewriting the last sentence of Section 1 to read as follows:

"The commission shall report to the First Session of the 1979 General Assembly."

Sec. 2. In addition to the current membership of the Committee on Aging of the Legislative Research Commission, under the authority of G.S. 120-30.10(c), the Speaker shall appoint two persons aged 60 or over, and the President Pro Tempore shall appoint two persons aged 60 or over.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of June, 1978.

S. R. 928

RESOLUTION 107

A JOINT RESOLUTION REQUESTING THE SECRETARY OF HUMAN RESOURCES TO APPOINT A TASK FORCE TO STUDY HOME HEALTH AND HOMEMAKER SERVICES, SO AS TO IMPLEMENT THE RECOMMENDATIONS OF THE LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE ON AGING.

Whereas, a pattern of in-home services to meet the varied and changing needs of older adults would be cost effective; and

Whereas, different agencies currently offer these types of services; and

Whereas, possible integration of home health and other in-home services may alleviate the problems;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Secretary of Human Resources is requested to establish a task force, within the department, to investigate the development, integration, and coordination of homemaker, home health, and similar services

Resolutions—1977

into a homemaker-home health aide delivery system which meets national standards.

Sec. 2. The task force is requested to make its report to the Legislative Research Commission, as well as to the Secretary of Human Resources.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of June, 1978.

S. R. 1018

RESOLUTION 108

A JOINT RESOLUTION AUTHORIZING THE CONSIDERATION OF A BILL TO BE ENTITLED "AN ACT TO ESTABLISH REQUIREMENTS FOR LICENSES FOR COMMERCIAL FISHING VESSELS OWNED BY NONRESIDENTS".

Whereas, "A BILL TO BE ENTITLED AN ACT TO ESTABLISH REQUIREMENTS FOR LICENSES FOR COMMERCIAL FISHING VESSELS OWNED BY NONRESIDENTS" is a new matter to be considered in 1978 and therefore the requirements of Resolution 75 must be met prior to the consideration of such a bill;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the 1977 General Assembly, Second Session 1978, give consideration to a bill to be entitled "AN ACT TO ESTABLISH REQUIREMENTS FOR LICENSES FOR COMMERCIAL FISHING VESSELS OWNED BY NONRESIDENTS".

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of June, 1978.

S. R. 936

RESOLUTION 109

A JOINT RESOLUTION AUTHORIZING CONSIDERATION OF A BILL TO COVER PUBLIC SCHOOL CAFETERIA WORKERS UNDER THE MINIMUM WAGE LAW.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the 1977 General Assembly, Second Session 1978, may consider a bill to be entitled: "An Act to Bring Cafeteria Employees in the Public Schools Under the Minimum Wage Law".

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of June, 1978.

Resolutions—1977

S. R. 1008

RESOLUTION 110

A JOINT RESOLUTION AUTHORIZING THE CONSIDERATION OF A BILL TO BE ENTITLED AN ACT TO ALTER THE METHOD OF FILLING VACANCIES IN THE BUNCOMBE COUNTY OFFICE OF TAX COLLECTOR.

Whereas, a bill to be entitled "AN ACT TO ALTER THE METHOD OF FILLING VACANCIES IN THE BUNCOMBE COUNTY OFFICE OF TAX COLLECTOR" is a new matter to be considered in 1978, and therefore the requirements of Resolution 75 must be met prior to the consideration of such a bill;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly, Second Session 1978, give consideration to a bill to be entitled "AN ACT TO ALTER THE METHOD OF FILLING VACANCIES IN THE BUNCOMBE COUNTY OFFICE OF TAX COLLECTOR".

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of June, 1978.

H. R. 1574

RESOLUTION 111

A JOINT RESOLUTION AUTHORIZING THE CONSIDERATION OF A BILL TO BE ENTITLED AN ACT TO EXEMPT FROM G.S. 159-40 CERTAIN PROVIDER PRIVATE, NONPROFIT CORPORATIONS WHICH ARE LICENSED OR CERTIFIED BY THE STATE OF NORTH CAROLINA.

Whereas, "A Bill To Be Entitled An Act To Exempt From G.S. 159-40 Certain Provider Private, Nonprofit Corporations Which Are Licensed Or Certified By The State Of North Carolina" is a new matter to be considered in 1978 and therefore the requirements of Resolution 75 must be met prior to the consideration of such a bill; and

Whereas, the North Carolina General Assembly in its 1977 Session passed and ratified Senate Bill 730, which has become General Statute 159-40; and

Whereas, this legislation was originally intended to address the fiscal accountability of a specific and narrowly defined group of private, nonprofit corporations; and

Whereas, the wording of this legislation brings under General Statute 159-40 a large number of private, nonprofit corporations which, as service providers, form a vital link in the human service-delivery system for a large number of North Carolina residents; and

Whereas, these provider private, nonprofit corporations are licensed or certified by agencies of the State government; and

Whereas, these provider private, nonprofit corporations are regulated and monitored by and are fiscally accountable to those agencies of State government with which they have contractual agreements;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Resolutions—1977

Section 1. That the 1977 General Assembly, Second Session 1978, give consideration to a bill to be entitled "An Act To Exempt From G.S. 159-40 Certain Provider Private, Nonprofit Corporations Which Are Licensed Or Certified By The State Of North Carolina."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1978.

H. R. 1678

RESOLUTION 112

A JOINT RESOLUTION AUTHORIZING THE CONSIDERATION OF A JOINT RESOLUTION TO ESTABLISH THE INTANGIBLES TAX STUDY COMMISSION.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the 1977 General Assembly, Second Session 1978, may consider a resolution to be entitled, "A Joint Resolution to Establish the Intangibles Tax Study Commission."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1978.

H. R. 1679

RESOLUTION 113

A JOINT RESOLUTION AUTHORIZING THE CONSIDERATION OF A BILL TO BE ENTITLED AN ACT TO REPEAL CHAPTER 892 OF THE 1965 SESSION LAWS TO ENABLE CUMBERLAND COUNTY TO RECEIVE ADDITIONAL FEDERAL REVENUE SHARING MONEY.

Whereas, Chapter 892 of the 1965 Session Laws requires Cumberland County to dedicate net profits derived from the sale of alcoholic beverages to debt service; and

Whereas, if these funds were not required to be so dedicated, the county could pursuant to G.S. 18A-18 add these funds to general revenue funds and thereby receive a larger share of federal revenue sharing money; and

Whereas, the repeal of Chapter 892 of the 1965 Session Laws would accomplish this desired objective; and

Whereas, this is a new matter to be considered in 1978 and therefore the requirements of Resolution 75 must be met prior to the consideration of a bill addressing such matter;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the 1977 General Assembly, Second Session 1978, give consideration to a bill to be entitled "An Act To Repeal Chapter 892 Of The 1965 Session Laws To Enable Cumberland County To Receive Additional Federal Revenue Sharing Money".

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1978.

Resolutions—1977

H. R. 1627

RESOLUTION 114

A JOINT RESOLUTION AUTHORIZING THE CONSIDERATION OF A JOINT RESOLUTION HONORING AND COMMENDING THE GARNER SENIOR HIGH SCHOOL GIRLS BASKETBALL TEAM, WINNER OF THE NORTH CAROLINA 4-A BASKETBALL CHAMPIONSHIP.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the 1977 General Assembly, Second Session 1978, may consider a joint resolution to be entitled, "A Joint Resolution Honoring and Commending the Garner Senior High School Girls Basketball Team, Winner of the North Carolina 4-A Basketball Championship."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1978.

H. R. 1673

RESOLUTION 115

A JOINT RESOLUTION AUTHORIZING THE CONSIDERATION OF A BILL TO ALLOW THE CITY OF WILSON TO ENTER CONTRACTS FOR THE REDEVELOPMENT OF LAND IN ADVANCE OF ITS ACQUISITION, TO DISPOSE OF PROPERTY AT PRIVATE SALE AND TO ENGAGE IN JOINT ACTIVITY FOR THE PURPOSE OF OBTAINING URBAN DEVELOPMENT ACTION GRANTS.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the 1977 General Assembly, Second Session 1978, may consider a bill to be entitled, "An Act to Allow the City of Wilson to Enter Contracts for the Redevelopment of Land in Advance of its Acquisition, to Dispose of Property at Private Sale and to Engage in Joint Activity for the Purpose of Obtaining Urban Development Action Grants".

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of June, 1978.

S. R. 896

RESOLUTION 116

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE AUTHORIZATION FOR, AND USE OF, OFFICE AND CLERICAL PERSONNEL WITHIN THE PRIMARY AND SECONDARY SCHOOL SYSTEMS OF NORTH CAROLINA.

Whereas, there exists no present study commission with sufficient funding, staff, and management expertise to undertake a study of the scope described in the title of this resolution; and

Whereas, there appears to be a potential for the realization of substantial savings to the taxpayers and improvements in efficiency in administration of the school systems at the local level;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Sec. 1. The Legislative Research Commission shall study the authorization for, and use of, office and clerical personnel within the school system including, but not limited to, the following:

Resolutions—1977

1. the current methods of funding personnel positions;
2. the optimum ratio of office and clerical personnel to the number of students within the system; and
3. the job descriptions necessary in school systems of various sizes.

Sec. 2. The commission is authorized to obtain assistance in carrying out its functions under this resolution from the Department of Education and local government units or organizations of local government units.

Sec. 3. The commission shall report on its study, including recommendations for appropriate legislative action, to the 1979 General Assembly.

Sec. 4. This resolution shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. R. 1624

RESOLUTION 117

A JOINT RESOLUTION AUTHORIZING THE CONSIDERATION OF A RESOLUTION TO COMMEMORATE THE BICENTENNIAL OF RUTHERFORD COUNTY.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1977 General Assembly, Second Session 1978, may consider a joint resolution entitled: A Joint Resolution Commemorating the Two-Hundredth Anniversary of the Historic County of Rutherford.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. R. 1658

RESOLUTION 118

A JOINT RESOLUTION AUTHORIZING THE CONSIDERATION OF A BILL TO PROHIBIT TAX ASSESSORS FROM CONSIDERING THE PRICE PAID FOR LAND UNDER THREAT OF CONDEMNATION.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the 1977 General Assembly, Second Session 1978, may consider a bill to be entitled: "An Act to Disqualify the Sale of Land Under Threat of the Exercise of the Power of Eminent Domain as Competent Evidence of the True Value of Comparable Land."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

Resolutions—1977

S. R. 1017

RESOLUTION 119

A JOINT RESOLUTION COMMENDING THE 1977-78 DUKE BLUE DEVIL BASKETBALL TEAM FOR ITS OUTSTANDING ACHIEVEMENTS.

Whereas, the Duke Blue Devil Basketball team won its first Atlantic Coast Conference Basketball Championship since 1966; and

Whereas, the Blue Devils finished second in the National Collegiate Athletic Association basketball tournament in St. Louis, Missouri; and

Whereas, the Blue Devils led the nation in foul shooting; and

Whereas, for the third consecutive year a member of the Blue Devils has been recognized as Rookie of the Year in the most competitive basketball conference in the nation; and

Whereas, Coach Bill Foster has wrought a miraculous transformation in four years as head coach of the Blue Devils, taking them from the basement to the penthouse; and

Whereas, the Blue Devils were undefeated at Cameron Indoor Stadium; and

Whereas, the Blue Devils in 1977-78 won 27 basketball games while losing only seven; and

Whereas, it was the first time since 1971 that the team had won as many as 20 games; and

Whereas, the members of the Blue Devil team and coaching staff won honor and respect for the State of North Carolina through their actions both on and off the basketball court;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the General Assembly of North Carolina extends congratulations to the Duke Blue Devil basketball team, to Coach Bill Foster and his staff, and to the student managers who all contributed to the outstanding success of the team during the 1977-78 season.

Sec. 2. That a copy of this resolution be duly certified by the Secretary of State and transmitted to Coach Foster.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. R. 830

RESOLUTION 120

A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION TO MAKE A STUDY TO DETERMINE THE FEASIBILITY OF PROVIDING A TAX SHELTER FOR EMPLOYEE CONTRIBUTIONS TO THE VARIOUS STATE-ADMINISTERED RETIREMENT SYSTEMS.

Whereas, teachers, State, and local governmental employees presently contribute a portion of their salaries to one of the various State-administered retirement systems which contributions are fully taxable for State and federal income tax purposes; and

Whereas, if a means of deferring the receipt of such income can be devised, the effect of such deferral will be to increase the "take-home" income of such

Resolutions—1977

employees and to defer the income tax thereon until its actual receipt, usually after the retirement of the employee, thereby further offsetting the effects of inflation upon such salaries;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The Legislative Research Commission is hereby directed to make a study to determine the feasibility of providing a tax shelter for employee contributions to the Teachers' and State Employees' Retirement System of North Carolina, the Law Enforcement Officers' Benefit and Retirement Fund, the Local Governmental Employees' Retirement System, the Uniform Clerks of Superior Court Retirement System, the Uniform Judicial Retirement System, and the Uniform Solicitorial Retirement System, and to any other retirement plans in which State employees participate and to make recommendations with respect thereto. The commission shall make a thorough and comprehensive study and review of the revenue laws of the State and of the United States and of the laws relating to these retirement systems as they relate to the feasibility of providing a means of sheltering employee contributions to these retirement systems; shall weigh the advantages and disadvantages to employees and to the State inherent in the adoption of such a plan and, if found feasible, shall make recommendations with respect to whether the plan should be optional or mandatory.

Sec. 2. The State Auditor, the State Treasurer and the Secretary of Revenue shall cooperate with the commission in its study and shall insure that their employees and staff provide full and timely assistance to the commission in the execution of its duties. Necessary staff for the commission shall be furnished by the Legislative Services Commission.

Sec. 3. The Legislative Research Commission shall transmit to the 1979 General Assembly a written report by February 15, 1979, summarizing the information obtained in the course of its inquiry, setting forth its findings and conclusions, and recommending such administrative action and legislation as it deems the public interest to require. If legislation is recommended, the commission shall prepare and submit with its report the appropriate bills.

Sec. 4. This resolution shall become effective July 1, 1978.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. R. 1688

RESOLUTION 121

A JOINT RESOLUTION AUTHORIZING THE CONSIDERATION OF A BILL TO BE ENTITLED "AN ACT TO REVOKE PERMITS AND TERMINATE EMPLOYMENT OF LOCAL ABC EMPLOYEES FOR SALE OF MIXED BEVERAGES TO PERSONS UNDER 21."

Whereas, a bill to be entitled "AN ACT TO REVOKE PERMITS AND TERMINATE EMPLOYMENT OF LOCAL ABC EMPLOYEES FOR SALE OF MIXED BEVERAGES TO PERSONS UNDER 21" is a new matter to be considered in 1978, and therefore the requirements of Resolution 75 must be met prior to the consideration of such a bill;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Resolutions—1977

Section 1. That the 1977 General Assembly, Second Session 1978, give consideration to a bill to be entitled "AN ACT TO REVOKE PERMITS AND TERMINATE EMPLOYMENT OF LOCAL ABC EMPLOYEES FOR SALE OF MIXED BEVERAGES TO PERSONS UNDER 21."

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. R. 1692

RESOLUTION 122

A JOINT RESOLUTION COMMEMORATING THE TWO HUNDREDTH ANNIVERSARY OF THE HISTORIC COUNTY OF RUTHERFORD.

Whereas, the County of Rutherford was formed in 1779 from Tryon County and named for a Royal Governor; and

Whereas, during the height of the Revolutionary War, the Patriots decided to abolish the name of "Tryon" and the County, because of its great size, was divided into Lincoln and Rutherford; and

Whereas, the first meeting of the Rutherford County Court of Pleas and Quarter Sessions, the governing body of the county, was held in April, 1779, at the home of Colonel John Walker near Logan Station, about five miles northeast of Rutherfordton; and

Whereas, Rutherford County was the center of the gold producing area of the world from 1810 until the California gold strike of 1849 with Bechtler's mint, due to the expert craftsmanship of Christopher Bechtler, Sr., being recognized officially by Congress to mint gold coins; and

Whereas, Brittain Presbyterian Church, eight miles northeast of Rutherfordton, is one of the oldest churches in North Carolina, having been established in 1768; and

Whereas, Rutherfordton, the county seat, is the county's oldest town, and from the time of its founding in 1785 to the Civil War was a frontier town on the edge of the western wilderness; and

Whereas, today Rutherford County has many diversified industries in addition to textiles, brought about by modern highways and an airport constructed over one of the old gold mines; and

Whereas, the County of Rutherford will conduct appropriate ceremonies during 1979 to observe its Bicentennial Anniversary;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the State of North Carolina through its duly elected Representatives and Senators hereby joins the people of Rutherford County in celebrating their Bicentennial and commemorating their great heritage with this resolution.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

Resolutions—1977

H. R. 1551

RESOLUTION 123

A JOINT RESOLUTION AUTHORIZING THE CONSIDERATION OF A BILL TO BE ENTITLED AN ACT TO AMEND G.S. 113-109(g), RELATING TO THE POSSESSION OF COUGARS.

Whereas, Resolution 75 of the 1977 Session of the General Assembly provided for adjournment of the 1977 General Assembly on July 1, 1977, at 6:00 p.m., to reconvene for a second session in 1978 for review of the budget for fiscal year 1978-1979 and for consideration of certain other bills; and

Whereas, the other bills to be considered included bills "introduced in 1977, and favorably acted upon in the house in which introduced, and not disposed of by tabling, unfavorable committee report, indefinite postponement, or failure to pass any reading in the other house"; and

Whereas, the House of Representatives and Senate were also authorized to consider any other matters which might be authorized in a joint resolution passed by a two-thirds majority in each house; and

Whereas, the purpose of the bill entitled "AN ACT TO AMEND G.S. 113-109(g)" is to permit persons who were in possession of cougars on the date of the ratification of G.S. 113-109(g) to lawfully retain possession of said cougars;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the 1977 General Assembly, Second Session 1978, give consideration to a bill to be entitled "AN ACT TO AMEND G.S. 113-109(g) RELATING TO THE POSSESSION OF COUGARS".

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. R. 1603

RESOLUTION 124

A JOINT RESOLUTION AUTHORIZING THE CONSIDERATION OF A RESOLUTION TO BE ENTITLED A JOINT RESOLUTION HONORING THE WASHINGTON "PAM PACK" FOR RECEIVING THE TITLE OF CHAMPIONS IN THE 3-A BASKETBALL CONFERENCE IN 1978.

Whereas, "A JOINT RESOLUTION HONORING THE WASHINGTON 'PAM PACK' FOR RECEIVING THE TITLE OF CHAMPIONS IN THE 3-A BASKETBALL CONFERENCE IN 1978" is a new matter to be considered in 1978 and therefore the requirements of Resolution 75 must be met prior to the consideration of such a bill;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the 1977 General Assembly, Second Session 1978, give consideration to a resolution to be entitled "A JOINT RESOLUTION HONORING THE WASHINGTON 'PAM PACK' FOR RECEIVING THE TITLE OF CHAMPIONS IN THE 3-A BASKETBALL CONFERENCE IN 1978".

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

Resolutions—1977

H. R. 1611

RESOLUTION 125

A JOINT RESOLUTION AUTHORIZING THE CONSIDERATION OF A RESOLUTION TO BE ENTITLED A JOINT RESOLUTION HONORING THE BELHAVEN BULLDOGS, WINNERS OF THE 1-A BASKETBALL CHAMPIONSHIP IN BOTH THE BOYS AND GIRLS DIVISION.

Whereas, "A JOINT RESOLUTION HONORING THE BELHAVEN BULLDOGS, WINNERS OF THE 1-A BASKETBALL CHAMPIONSHIP IN BOTH THE BOYS AND GIRLS DIVISION" is a new matter to be considered in 1978 and therefore the requirements of Resolution 75 must be met prior to the consideration of such a bill;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the 1977 General Assembly, Second Session 1978, give consideration to a resolution to be entitled "A JOINT RESOLUTION HONORING THE BELHAVEN BULLDOGS, WINNERS OF THE 1-A BASKETBALL CHAMPIONSHIP IN BOTH THE BOYS AND GIRLS DIVISION".

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. R. 1615

RESOLUTION 126

A JOINT RESOLUTION AUTHORIZING THE CONSIDERATION OF A BILL TO BE ENTITLED AN ACT TO AMEND G.S. 20-288 PERTAINING TO MOTOR VEHICLE DEALER BOND.

Whereas, "A BILL TO BE ENTITLED AN ACT TO AMEND G.S. 20-288 PERTAINING TO MOTOR VEHICLE DEALER BOND" is a new matter to be considered in 1978 and therefore the requirements of Resolution 75 must be met prior to the consideration of such a bill;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the 1977 General Assembly, Second Session 1978, give consideration to a bill to be entitled "AN ACT TO AMEND G.S. 20-288 PERTAINING TO MOTOR VEHICLE DEALER BOND".

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

Resolutions—1977

H. R. 1684

RESOLUTION 127

A JOINT RESOLUTION HONORING AND COMMENDING THE GARNER SENIOR HIGH SCHOOL GIRLS BASKETBALL TEAM, WINNER OF THE NORTH CAROLINA 4-A BASKETBALL CHAMPIONSHIP.

Whereas, the girls basketball team of Garner Senior High School has brought honor to Garner and Wake County by winning the North Carolina State 4-A Girls Basketball Championship; and

Whereas, each member of the team did display great togetherness and team play to win this championship; and

Whereas, each member of the team did perform her best in the true tradition of good sportsmanship; and

Whereas, the members of the Garner Senior High School girls basketball team did receive inspiration and instruction from the coach of the team, Lawrence Dunn; and

Whereas, the team received loyal support and encouragement from the administration, fellow students and faculty members of Garner High School and from the citizens of Garner and Wake County;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina extends congratulations to the Garner Senior High School girls basketball team and its coach, Lawrence Dunn, for its outstanding achievements during the 1977-78 basketball season; namely, for being the winner of the State 4-A Girls Basketball Championship.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. R. 1691

RESOLUTION 128

A JOINT RESOLUTION TO ESTABLISH THE INTANGIBLES TAX STUDY COMMISSION.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. There is established the Intangibles Tax Study Commission. The commission shall consist of the State Treasurer, the Secretary of Revenue, the Chairman of the Economic Development Board within the Department of Commerce, three citizens appointed by the President of the Senate and three citizens appointed by the Speaker of the House of Representatives. The chairman of the commission shall be elected by the members of the commission from among their number. The commission may also elect such other officers as it deems necessary.

Sec. 2. The President of the Senate and the Speaker of the House of Representatives shall make their appointments on July 1, 1978, or as soon thereafter as is practicable. Members shall serve until the report of the commission is filed with the Governor and the General Assembly.

Sec. 3. It shall be the duty of the commission to make a thorough study of the tax levied on intangible personal property by Schedule H of the Revenue Act (G.S. 105-198 through 105-217) and recommend any changes in the tax that it deems necessary. The commission shall give particular attention to the effect

Resolutions—1977

of this tax on the overall equity of the State-local tax system in North Carolina and its effect on the State's economy. If the commission should recommend that the tax be repealed or reduced, it shall also consider the issue of alternative sources of revenue for local governments now receiving a share of the intangibles tax proceeds, and the issue of other funding for items in the State budget now supported by the intangibles tax.

Sec. 4. The commission shall report its findings and recommendations to the Governor and the 1979 General Assembly, and shall make publication of the same not later than January 1, 1979.

Sec. 5. The members of the commission shall receive per diem, travel, and subsistence allowances in accordance with the provisions of G.S. 138-5.

Sec. 6. The expenses of the commission shall be paid from the Contingency and Emergency Fund pursuant to the procedure prescribed by or pursuant to law. The commission is authorized to accept and expend the proceeds of any gift, donation, or grant from any person, firm, corporation, foundation, or governmental agency to defray the costs of performing its duties. The commission may employ such assistance and procure such materials and services as it deems necessary to the performance of its duties. Every agency of State, county, and municipal government shall provide the commission with such information and assistance as it shall request.

Sec. 7. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. R. 935

RESOLUTION 129

A JOINT RESOLUTION AUTHORIZING THE CONSIDERATION OF A JOINT RESOLUTION TO DIRECT THE LEGISLATIVE SERVICES COMMISSION TO STUDY PARKING ON STATE LEGISLATIVE BUILDING GROUNDS.

Whereas, General Assembly members have encountered difficulties in parking on the perimeter of the State Legislative Building; and

Whereas, Resolution 75, ratified June 30, 1977, provided that "...after ratification of a joint resolution passed by a two-thirds majority in each house, the House of Representatives and Senate may also consider any matters authorized by that resolution.";

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. That the 1977 General Assembly, Second Session 1978, may consider a resolution to be entitled "A Resolution to Direct the Legislative Services Commission to Study Parking on State Legislative Building Grounds" and to report its recommendations to the 1979 General Assembly.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

Resolutions—1977

H. R. 1675

RESOLUTION 130

A JOINT RESOLUTION TO CONTINUE THE COMMITTEE FOR THE STUDY OF THE COLLECTION OF PROPERTY TAXES ON MOTOR VEHICLES.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Committee for the Study of the Collection of Property Taxes on Motor Vehicles created by Resolution 94 of the 1977 Session Laws shall continue in existence and report to the 1979 Session of the General Assembly.

Sec. 2. The unexpended balance of the appropriation to the committee is continued for the use of the committee until its termination with an additional five thousand dollars (\$5,000) approved.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. R. 978

RESOLUTION 131

A JOINT RESOLUTION REQUESTING THE ADVISORY BUDGET COMMISSION TO GIVE PRIMARY CONSIDERATION TO A STATE INCOME TAX CUT IF THE 1978-79 STATE BUDGET SURPLUS WARRANTS SUCH A CUT.

Whereas, even though the wages and salaries of North Carolina workers have risen over the last decade, the increase has just barely been enough to offset the increase in consumer prices, federal income taxes, Social Security taxes, and State and local taxes, so that the taxpayer is no better off; and

Whereas, even though the taxpayer is no better off in real terms, his State sales and income tax burden has increased every year because the General Assembly has not adjusted the State income or sales tax schedule for inflation; and

Whereas, the additional State income tax revenue resulting from this inflation tax effect is now over \$300 million per year; and

Whereas, the last several sessions of the General Assembly have been generous with the taxpayers' money collected from the inflation tax in creating new programs and has continuously provided increased salaries and fringe benefits to teachers and State employees; and

Whereas, many other states are sending some of their inflation-created budget surpluses back to their taxpayers; and

Whereas, the Advisory Budget Commission will begin consideration in the near future of the next State Budget; and

Whereas, in formulating a proposed budget for the next fiscal year, the Advisory Budget Commission would be assisted if it knew as early as possible the wishes of the General Assembly regarding any State tax measures;

Now, therefore, be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly requests that the Advisory Budget Commission, in its consideration of the State Budgets for the future give primary consideration to the inclusion in its recommendations a State income tax cut of as much as one hundred million dollars (\$100,000,000), should the size

Resolutions—1977

of the 1978-79 State Budget surplus warrant such a reduction. The General Assembly requests the Advisory Budget Commission, in its study of the credit, give consideration to the effects of inflation on the State income and sales tax burden of North Carolina taxpayers.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. R. 1027

RESOLUTION 132

A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE GENERAL ASSEMBLY ON FRIDAY, JUNE 16, 1978, AT 2:00 P.M.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. Both the Senate and the House of Representatives constituting the General Assembly of 1977 do adjourn *sine die* on Friday, June 16, 1978, at 2:00 p.m.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

S. R. 1030

RESOLUTION 133

A JOINT RESOLUTION REQUESTING THE ADVISORY BUDGET COMMISSION TO RECOMMEND A STATE PERSONAL INCOME TAX EXEMPTION FOR UNEMPLOYMENT BENEFITS RECEIVED BY TAXPAYERS WHOSE ADJUSTED GROSS INCOME IS LESS THAN FIVE THOUSAND TWO HUNDRED DOLLARS.

Whereas, North Carolina is the only State that still taxes unemployment benefits; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The 1977 General Assembly, Second Session 1978, hereby requests that the Advisory Budget Commission, in its consideration of the 1979-81 State Budget, recommend a bill to exempt from the State personal income tax, effective January 1, 1980, the receipt of unemployment benefits for taxpayers whose adjusted gross income, including the unemployment benefits, is less than five thousand two hundred dollars (\$5,200).

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

Resolutions—1977

H. R. 1383

RESOLUTION 134

A JOINT RESOLUTION CREATING A COMMITTEE FOR THE STUDY OF THE NEED FOR A COMPREHENSIVE STATEWIDE PROGRAM FOR THE LOCATION, IDENTIFICATION, AND PROPER CARE OF ABANDONED CEMETERIES.

Whereas, there are thousands of cemeteries of all ages, sizes and shapes throughout the State of North Carolina which have been abandoned, which are being vandalized, and which are being lost; and

Whereas, cemeteries contain a vital record of the story of man both in the form of information recorded on gravemarkers and in terms of man's attitude toward life, death and his ancestorage; and

Whereas, the current statutes and practices in the State of North Carolina actually discourage rather than encourage the preservation and care of cemeteries which have been created and subsequently abandoned through a period of more than 300 years; and

Whereas, the location, identification, preservation and proper care of cemeteries in North Carolina is properly a function of the various levels of the public sector and should be improved far beyond the present deplorable circumstances; and

Whereas, responsibility for the care of abandoned cemeteries is increasingly becoming a disputed problem between and among the various agencies of State and local government and private citizens and organizations;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. There is created the Committee for the Study of Abandoned Cemeteries to be composed of 16 members, two to be appointed by the Governor, one to be appointed by the President of the Senate, one to be appointed by the Speaker of the House, and one each from the following organizations and agencies, to be selected and appointed by the chief executive or officer thereof:

United Daughters of the Confederacy

Society of the Colonial Dames of America in the State of North Carolina

Sons of Confederate Veterans

North Carolina Chapter of the Daughters of the American Revolution

North Carolina Genealogical Society

North Carolina Chapter of the Sons of the American Revolution

North Carolina Chapter of the Society of the Cincinnati

North Carolina Historical Commission

North Carolina Archaeological Council

North Carolina Association of County Commissioners

North Carolina League of Municipalities

Division of Archives and History, Department of Cultural Resources

All appointments shall be made in time for the committee to begin its work by September 1, 1978.

Sec. 2. It shall be the duty of the committee to make a comprehensive study of the approximate number of abandoned cemeteries in the State of North Carolina, their origination, status and current condition through surveys of selected counties and municipalities for the purpose, to make a comprehensive study of current statutes and ordinances relating to preservation

Resolutions—1977

and care of abandoned cemeteries and the manner in which they are implemented in the various counties and municipalities of the State; and to make a study of various statutory systems which may have been established in other states for the preservation and care of abandoned cemeteries. The committee in its study shall review historical practices in the creation and care of cemeteries in North Carolina in relationship to other states which may have workable systems of caring for abandoned cemeteries. The committee shall examine other areas in the subject of preservation and care of cemeteries as it may deem proper in order to make a comprehensive statement on the status and need of abandoned cemeteries in North Carolina. In its work, the committee shall consult with archaeologists, historians, county and municipal officials, private owners of abandoned cemeteries, and may employ such experts as are necessary in the completion of its work.

Sec. 3. Upon its appointment, the committee shall organize by electing from its membership a chairman and a vice-chairman.

Sec. 4. That all administrative and staff assistance shall be provided to the committee by and through the Division of Archives and History, Department of Cultural Resources.

Sec. 5. That the actual and necessary expenses of the committee are authorized from the Contingency and Emergency Fund pursuant to G.S. 143-12.

Sec. 6. That the members of the committee shall be reimbursed and compensated as follows:

- (a) Legislator members at the rates set out in G.S. 120-3.1;
- (b) Public members as set out in G.S. 138-5; and
- (c) State employee or official members as set out in G.S. 138-6.

Sec. 7. The committee shall report its findings and recommendations to the 1981 General Assembly by January 10, 1981.

Sec. 8. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

H. R. 1694

RESOLUTION 135

A JOINT RESOLUTION HONORING THE BELHAVEN BULLDOGS, WINNERS OF THE 1-A BASKETBALL CHAMPIONSHIP IN BOTH THE BOYS AND GIRLS DIVISIONS.

Whereas, the boys and girls basketball teams of Belhaven have brought honor to their town and school by winning the 1-A Basketball Conference Championship; and

Whereas, the Belhaven Bulldogs displayed great togetherness and team play to win this championship; and

Whereas, the members of the boys' team, James Freeman, Johnny Gottins, Connie Hooker, Fred Wilkinson, Tony Ebron, Edgar Ebron, Fred Harris, Anthony Topping, Darriel Barrow, Lennie Jenette, Frederick Moore and Willie Smith, performed their best in the true tradition of good sportsmanship; and

Whereas, the members of the girls' team, Martha Gibbs, Annette Smith, Linda Nelson, Shirley Palmer, Roslinda Spencer, Mary Satchell, Cindy Midgett, Pam Shepard, Hattie Hooker, Teresa Ebron, Jackie Burrus, Reba Griffin, Pam McCloud, Mary Corprew, Denise Davis, Selena Freeman and Sherry Davenport, also performed well and with a true sense of sportsmanship; and

Resolutions—1977

Whereas, the members of the teams received inspiration and guidance from their coaches, Doug Barnes and John Jones, and support from their principal Donald Sayce; and

Whereas, the trainer John Britt, the score keepers, Harry Wilkinson and Mary Spencer and the managers, Curtis Fonville, Tim Freeman, Alfred Harroll, Gary Burgess and Brice Credle worked diligently and faithfully for the teams;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. That the General Assembly of North Carolina hereby congratulates the Belhaven Bulldogs for their outstanding season and for being the winners of the 1-A Basketball Championship in the boys and girls division.

Sec. 2. That a certified copy of this resolution be forwarded to each member of the team and to the coaches.

Sec. 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1978.

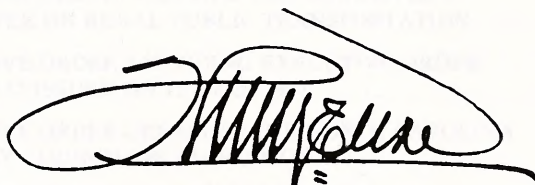
APPENDIX

STATE OF NORTH CAROLINA

DEPARTMENT OF STATE,

RALEIGH, JUNE 21, 1978

I, THAD EURE, Secretary of State of North Carolina hereby certify that the foregoing volume was printed under the direction of the Legislative Services Commission from ratified acts and resolutions on file in the office of the Secretary of State.

A handwritten signature in black ink, appearing to read "Thad Eure", with a large, sweeping flourish extending from the end of the signature.

Secretary of State

APPENDIX

EXECUTIVE ORDERS OF GOVERNOR JAMES B. HUNT, JR.

Title	Number
AN EXECUTIVE ORDER DIRECTING STATE AGENCIES TO FOLLOW COASTAL POLICIES, GUIDELINES, AND STANDARDS	XV
AN EXECUTIVE ORDER CREATING THE COUNCIL ON VOLUNTEERS FOR THE CRIMINAL JUSTICE SYSTEM	XVI
AN EXECUTIVE ORDER CREATING THE NORTH CAROLINA ENERGY INSTITUTE	XVII
AN EXECUTIVE ORDER CREATING THE NORTH CAROLINA TASK FORCE ON PUBLIC TELECOMMUNICATIONS	XVIII
AN EXECUTIVE ORDER CREATING THE ADVISORY COUNCIL TO THE GOVERNOR'S OFFICE OF CITIZEN AFFAIRS	XIX
AN EXECUTIVE ORDER CREATING THE USS MONITOR TECHNICAL ADVISORY COMMITTEE	XX
AN EXECUTIVE ORDER CREATING THE NORTH CAROLINA-ISRAEL VISITING SCHOLAR PROGRAM	XXI
AN EXECUTIVE ORDER ESTABLISHING THE NORTH CAROLINA LOCAL GOVERNMENT ADVOCACY COUNCIL	XXII
AN EXECUTIVE ORDER CREATING THE GOVERNOR'S COMMITTEE ON RURAL PUBLIC TRANSPORTATION	XXIII
AN EXECUTIVE ORDER AMENDING EXECUTIVE ORDER NUMBER 12 ISSUED ON JULY 28, 1977	XXIV
AN EXECUTIVE ORDER CREATING THE NORTH CAROLINA ADVISORY COUNCIL ON EDUCATION	XXV
AN EXECUTIVE ORDER PROVIDING FOR AGENCIES RESPONSIBLE FOR SOLID WASTE MANAGEMENT ACTIVITIES	XXVI

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 15

WHEREAS, the General Assembly of North Carolina, in passing the Coastal Area Management Act, has expressed its desire for a comprehensive, coordinated management system for the protection and orderly development of the coastal area; and,

WHEREAS, the stated goals of the Coastal Area Management Act are:

- (1) To preserve and manage the natural ecological conditions of the estuarine system, the barrier dune system, and the beaches, so as to safeguard and perpetuate their natural productivity and their biological, economic and aesthetic values;
- (2) To insure that the development or preservation of the land and water resources of the coastal area proceeds in a manner consistent with the capability of the land and water for development, use, or preservation based on ecological considerations;
- (3) To insure the orderly and balanced use and preservation of our coastal resources on behalf of the people of North Carolina and the nation;
- (4) To establish policies, guidelines and standards for:
 - (i) Protection, preservation, and conservation of natural resources, including, but not limited to, water use, scenic vistas, and fish and wildlife; and management of transitional or intensely developed areas and areas especially suited to intensive use or development, as well as areas of significant natural value;
 - (ii) The economic development of the coastal area, including, but not limited to, conservation, location

- and design of industries, port facilities,
commercial establishments and other developments;
- (iii) Recreation and tourist facilities and parklands;
 - (iv) Transportation and circulation patterns for the coastal area, including major thoroughfares, transportation routes, navigation channels and harbors, and other utilities and facilities;
 - (v) Preservation and enhancement of the historic, cultural and scientific aspects of the coastal area;
 - (vi) Protection of present common law and statutory public rights in the lands and waters of the coastal area;
 - (vii) Any other purposes deemed necessary or appropriate to effectuate the policy of The Coastal Area Management Act; and

WHEREAS, the Coastal Resources Commission shall be responsible for the preparation, adoption, and amendment of the State guidelines for the coastal area, which shall consist of statements of objectives, policies, and standards to be followed in public and private use of land and water areas within the coastal area; and

WHEREAS, all local land use plans adopted pursuant to The Coastal Area Management Act within the coastal area shall be consistent with the State guidelines; and

WHEREAS, any State land policies governing the acquisition, use and disposition of land by State departments and agencies shall take account of and be consistent with guidelines adopted under The Coastal Area Management Act, insofar as lands within the coastal area are concerned; and

WHEREAS, from and after the "permit changeover" date; all existing regulatory permits within the coastal area shall be administered in coordination and consultation with (but not subject to the veto of) the Coastal Resources Commission. No such existing permits within the coastal area shall be issued, modified, renewed or terminated except after consultation with the Commission;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

Section 1. All State agencies shall take account of and be consistent to the maximum extent possible with the coastal policies, guidelines and standards contained in the State guidelines, with the local land use plans developed under the mandate of The Coastal Area Management Act, and with the North Carolina Coastal Plan prepared under the Federal Coastal Zone Management Act of 1972 in all regulatory programs, use and disposition of state-owned lands, financial assistance for public facilities, and encouragement and location of major public and private growth-inducing facilities.

Section 2. The Secretary of Natural Resources and Community Development and the Coastal Resources Commission shall ensure the opportunity for full participation by affected State agencies in the development of policies and guidelines for the coastal area prior to their adoption.

Section 3. All conflicts arising from the implementation of this order within the Department of Natural Resources and Community Development shall be resolved by the Secretary of that Department, and all conflicts over consistency between the administering coastal management agency (Department of Natural Resources and Community Development) and another department of State government shall be resolved by the Governor.

Section 4. This Executive Order shall be effective immediately.

Done in Raleigh, North Carolina, this the 27th day of October, 1977.




GOVERNOR OF NORTH CAROLINA

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 16

WHEREAS, Executive Order Number 9 creating the Council on Volunteers for the Criminal Justice System was signed by Governor James B. Hunt, Jr., the 28th day of June, 1977; and

WHEREAS, it may be necessary for more effective citizen participation to have additional members appointed to the Council on Volunteers for the Criminal Justice System,

NOW, THEREFORE, IT IS ORDERED THAT SECTIONS 1. and 2. OF EXECUTIVE ORDER NUMBER 9 BE AMENDED TO READ AS FOLLOWS:

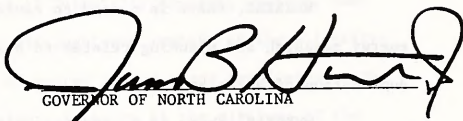
Section 1. There is hereby created in the Governor's Office of Citizens Affairs the Council on Volunteers for the Criminal Justice System composed of not more than twenty-five (25) members which shall have the following duties and responsibilities:

- (1) To help coordinate and assist in the development and promotion of volunteer groups in the Criminal Justice System, with an emphasis on low income and minority segments of our population;
- (2) To act as advisor to the Director of Criminal Justice Volunteer Services who is located in the Governor's Office of Citizens Affairs;
- (3) To assist in exploring the implementation of the recommendation of the Legislative Commission on Correctional Programs regarding a non-profit, private, mechanism to expand effective voluntarism in the Criminal Justice System.

Section 2. The Council shall serve for a term of two years and shall be appointed in the following manner:

- (1) At least Sixteen (16) members of the Council shall be appointed by the Governor who will also designate the chairman;
- (2) two (2) members of the Council shall be appointed by the Secretary of the Department of Correction;
- (3) one (1) member of the Council shall be appointed by the Secretary of the Department of Human Resources, one (1) member shall be appointed by the Secretary of the Department of Crime Control and Public Safety, and one (1) member shall be appointed by the Director of the Administrative Office of the Courts.

This Order shall become effective immediately. Done in Raleigh, North Carolina, this the 30th day of November, 1977.


GOVERNOR OF NORTH CAROLINA

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 17

WHEREAS, there is a need in the State of North Carolina to implement the policies of the Energy Policy Council relative to energy research and development and a need for administration of funds in carrying forward the energy research and development program for the State; and,

WHEREAS, there is a need for developing and coordinating a statewide program of research and development in energy related matters to set priorities in encouraging and supporting efforts in those areas of energy research and development which are of particular importance to the State of North Carolina; and

WHEREAS, there is a need to review and coordinate all state energy research and planning related to energy in an effort to reduce duplication of work; and

WHEREAS, there is a need for a state agency to coordinate energy research matters with local government, regional organizations, other states and federal government;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. There is hereby created the North Carolina Energy Institute to be an agency under the Department of Commerce. The Energy Institute will have as its primary duties and responsibilities the following:

- (a) To provide the Energy Policy Council with alternatives that can be used to assist in establishing priorities for energy research and development of particular importance to North Carolina.

- (b) To facilitate and coordinate statewide energy research among public and private universities and private and non-profit industries.
- (c) To help generate support for energy research programs from federal and other sources.
- (d) To conduct a continual overview of energy research to help improve its effectiveness.
- (e) To provide assistance to the state and nation in energy research policies.

Section 2. The chief executive officer of the Energy Institute will be the Institute Director, who will be responsible to the Secretary of Commerce for the Institute's operations, including its budget. The Director shall be responsible to the Energy Policy Council for implementing state energy research and development policies and priorities as established by the Energy Policy Council. The Director shall be a distinguished scientist, preferably in the area of energy sciences. His salary will be determined by the Secretary of Commerce.

Section 3. There is hereby created the Energy Institute Board of Scientific Advisors which shall advise the Institute Director on energy research. The Energy Institute Board of Scientific Advisors shall be composed of not more than fourteen (14) distinguished members of the scientific community knowledgeable in the area of energy research and development. The Board shall be appointed by the Governor, to serve at the pleasure of the Governor, from recommendations made by the Consolidated University of North Carolina and the Energy Policy Council, with fifty percent (50%) of the membership coming from those recommendations made by the Consolidated University of North Carolina and fifty percent (50%) coming from recommendations made by the Energy Policy Council. Each member shall serve a four (4) year term. The sole purpose of the Energy Institute Board of Scientific Advisors will be to advise and consult with the Energy Institute. Members of the Energy

Institute Board of Scientific Advisors shall be reimbursed for travel expenses as may be authorized for members of State boards and commissions generally, pursuant to G.S. 138-6.

Section 4. The Institute Director shall also have the following duties:

- (a) The Director shall consult regularly with the Energy Policy Council about energy research, and the Director will seek the Council's advice in determining priorities for the Institute's work and recommendations on energy research proposals.
- (b) At his pleasure, the Director may appoint Technical Advisory Committees from the academic and other professional communities to help him assess energy research proposals and explore areas of energy research. Members of the Director's Technical Advisory Committees shall be entitled to such per diem and reimbursement for travel and subsistence as may be authorized for State boards and commissions generally, pursuant to G.S. 138-6.
- (c) The Director will have primary responsibility for soliciting and receiving energy research and development proposals that request State financial support. With the advice and counsel of the Energy Institute Board of Scientific Advisors and the Energy Policy Council, the Director will recommend to the Secretary of Commerce those proposals that the Director deems worthy of State or federal funding, or both. The Secretary of Commerce will have final approval over such grants after insuring their compatibility with the overall policies and objectives of the Energy Policy Council.
- (d) The Director will prepare an annual report of the Institute's activities which shall include but not be limited to the following:
 - (1) Report on the progress and results of research and development projects funded by the Institute.
 - (2) Identification of energy research and development needs of particular importance to North Carolina.

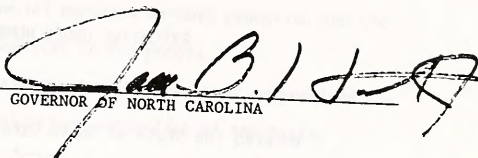
(3) Evaluation of the benefits accruing to the State and the Institute from funded projects. The annual report shall be submitted to the Secretary of Commerce.

Section 5. This Order shall become effective immediately.

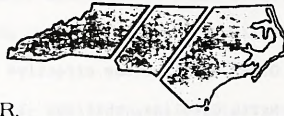
Done in Raleigh, North Carolina, this the 3 day of January,

1978.




GOVERNOR OF NORTH CAROLINA

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 18

WHEREAS the State of North Carolina has a multimillion dollar investment in public telecommunications such as telephone data transmission, radio and television systems; and

WHEREAS various departments, agencies, and administrative units of State Government have authority vested by statutes to oversee the operations of these public telecommunications systems; and

WHEREAS there are administrative, legislative, and regulatory changes taking place at the Federal level which can increase funds available to North Carolina for telecommunications; and

WHEREAS nationally and worldwide, rapidly developing telecommunications technologies are increasingly being applied to the delivery of social services, medical services, educational services, and to increase the availability of cultural resources and the opportunity to participate in decision-making processes of government without energy-depleting travel;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. There is hereby created, for a period of one year, the North Carolina Task Force on Public Telecommunications. The Task Force will have as its primary duties and responsibilities the following:

- (a) To study existing state telecommunications facilities and the services they deliver, and identify telecommunications needs.

- (b) To study telecommunications costs in relation to current services, including exploration of potential monetary savings through greater interagency cooperation and improved liaison with federal agencies which can provide financial and technical telecommunications assistance.
- (c) To study, evaluate, and inform state agencies about new telecommunications technologies and the services they can deliver, with special emphasis on cost reduction and the improvement of services to the people.
- (d) To consider how citizens' rights can best be provided for in the telecommunications activities of the State, including the right to privacy, the right of public access to facilities and services, and the right of public participation in policy-making.
- (e) To write a report, for delivery to the Governor on or about January 31, 1979, recommending administrative, legislative, and regulatory modifications necessary to assure that the citizens of the State receive their full share of the benefits of modern public telecommunications technology.

Section 2. The Task Force shall be composed of not more than twenty-five (25) distinguished and interested citizens to be appointed by the Governor and who will serve, at the pleasure of the Governor, for the one-year life of the Task Force. The Task Force membership shall include at least one (1) member from each house of the State Legislature, and may include members of the Executive Branch. In addition, not more than ten (10) non-voting ex officio members of the Task Force shall be appointed by the Governor. The ex officio members shall be officers of the Executive Branch or members of state commissions, boards, or agencies with special responsibilities for telecommunications activities or policy. Ex officio members shall also serve, at the pleasure of the Governor, for the one-year life of the Task Force. Members and ex officio members of

the Task Force shall be entitled to reimbursement for travel and expenses as may be authorized for members of state boards and commissions generally, pursuant to GS 138-5.

Section 3. The Chairman of the Task Force shall be designated by the Governor from among the Task Force membership. The duties of the Chairman shall include the following:

- (a) The Chairman shall plan, schedule, and chair all meetings of the Task Force. He shall cause such meetings to be announced in advance to the public and to interested parties in State Government.
- (b) The Chairman shall have the primary responsibility of calling for written reports from state officials and personnel engaged in telecommunications activities and for scheduling presentation of these reports before the Task Force.
- (c) At his pleasure, the Chairman may appoint technical advisory committees from the professional community to help assess the current telecommunications status and relate that status to new and developing technologies. Members of such technical advisory committees may be reimbursed for travel and expenses.
- (d) The Chairman shall have primary responsibility for coordinating the reports and recommendations resulting from the work of the Task Force.

Section 4. The Staff Director of the Task Force shall be appointed by the Governor from among current personnel of the Policy Development Division of the Department of Administration. The duties of the Staff Director shall include the following:

- (a) To supervise, at the direction of the Chairman, the staff of the Task Force.
- (b) To supervise, at the direction of the Chairman, the budget of the Task Force.

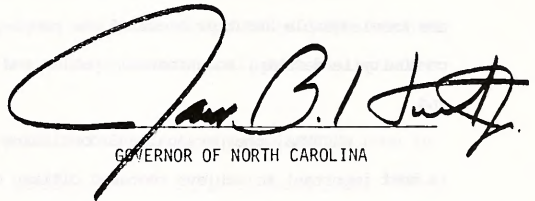
- (c) To arrange for the recording of minutes of Task Force meetings, and to compile all information gathered in the course of the Task Force study.
- (d) To serve as a liaison between the Task Force and the various departments, divisions, agencies, and offices of State Government.
- (e) To assist, at the direction of the Chairman, in the preparation of all Task Force reports and recommendations.
- (f) To employ and supervise personnel necessary to accomplish the purposes of the Task Force.

Section 5. Initial funding for operations and personnel of the Task Force shall come from a grant from the Mary Reynolds Babcock Foundation in the amount of \$4,375.00. Additional such funding is expected from other sources. In-kind support, such as telephone service and office space, shall be assumed by the Department of Administration.

Section 6. Every agency within State Government within my authority is requested to cooperate with the Task Force in providing all necessary information regarding their activities.

Section 7. This Order shall become effective immediately.

Done in Raleigh, North Carolina, this the 14 day of February, 1978.


GOVERNOR OF NORTH CAROLINA



State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 19

WHEREAS, there is a recognized need in the State of North Carolina to involve citizens on all levels in the process of government through citizen leadership, citizen participation, and citizen volunteer efforts; and

WHEREAS, appropriate use of well-trained volunteer and civic leaders may well serve to encourage greater citizen participation in communities and counties throughout the state through volunteerism and citizen leadership; and

WHEREAS, the Governor has placed highest priority upon increasing volunteer efforts among citizens in the state to promote greater citizen awareness of and personal involvement in state and local government programs, services and activities, and to promote citizen communication with the Governor and state government; and

WHEREAS, establishing a council of professionals and citizens who are knowledgeable about problems of the people, community organizations, community leadership, volunteerism, public and private services and activities; and

WHEREAS, the personal and continuing leadership of the Governor is most important to achieve restored citizen confidence in governmental institutions, to involve citizens in the process of government, and in helping one another; and

WHEREAS, an Office of Citizen Affairs in the Office of the Governor has been created to promote greater citizen awareness and citizen involvement;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

Section 1. There is hereby created in the Governor's Office of Citizen Affairs an Advisory Council to the Governor's Office of Citizen

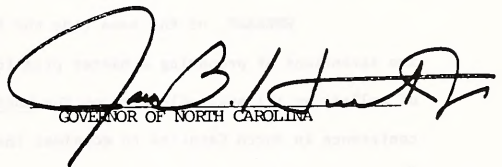
Affairs composed of twenty-seven (27) members, which shall have the following duties and responsibilities:

- (a) To help in the coordination and to assist in the development and promotion of state and local government citizen participation programs, such as Community Watch, Right-to-Read Tutoring Programs, Energy Conservation, Children's Programs, Criminal Justice Programs, and others;
- (b) To act as an advisor to the Executive Director of the Governor's Office of Citizen Affairs;
- (c) To assist in providing information to the citizens of North Carolina about the Governor's Office of Citizen Affairs, state programs, services, and activities;
- (d) To provide assistance in the encouragement of citizen leadership and responsibility in communities and counties throughout the state;
- (e) To encourage volunteerism on all levels in North Carolina; and
- (f) To assist in establishing Voluntary Action Centers and Community Resource Centers in each county in North Carolina.

Section 2. The Council shall consist of not more than twenty-seven (27) members, all of whom shall be appointed by the Governor and shall serve until June 30, 1979, beginning upon the execution of this Order. The Governor will designate the Chairman, and the Advisory Council shall meet at the call of the Chairman.

Section 3. This Order shall become effective immediately. Done in Raleigh, North Carolina, this the 29th day of March, 1978.




GOVERNOR OF NORTH CAROLINA

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 20

WHEREAS, the State of North Carolina and its citizens have contributed extensively to all phases of discovery and research relating to the location, identification, and further examination of the USS Monitor since the early 1960s; and

WHEREAS, through the cooperative endeavors of the State of North Carolina, researchers at the Duke University Marine Laboratory at Beaufort, North Carolina, and other researchers throughout America, the resting place of the USS Monitor was located in August, 1973; and

WHEREAS, since the time of her discovery the State of North Carolina has played a leading role in the further study and protection of the wreck of the USS Monitor by nominating the site off the coast of North Carolina for inclusion in the National Register of Historic Places and for designation as the nation's first marine sanctuary; and

WHEREAS, in December, 1977, the State of North Carolina concluded a memorandum of agreement with the National Oceanic and Atmospheric Administration of the United States Department of Commerce to establish a system of technical and professional review of proposals for additional research in the area of the Monitor Marine Sanctuary; and

WHEREAS, at the same time the State of North Carolina announced its intentions of preparing a master plan for research in the marine sanctuary, of collecting all available data on the Monitor, and of convening a national conference in North Carolina to consider the future of the Monitor; and

WHEREAS, it is the desire of the State of North Carolina to encourage only the most scientifically, historically, and professionally sound research on the Monitor in the future and to assist any and all qualified researchers and research institutions throughout North Carolina and the nation in undertaking such research;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. There is hereby created, for a period of one year or for the duration of the state's memorandum of agreement with the National Oceanic and Atmospheric Administration of the United States Department of Commerce, the USS Monitor Technical Advisory Committee for the review of research proposals to undertake studies in the Monitor Marine Sanctuary. The duties and responsibilities, constituency, and direction of the committee shall be as provided in the memorandum of agreement between the State of North Carolina and the National Oceanic and Atmospheric Administration as concluded on October 3, 1977, and as may from time to time be amended. Members of the committee shall be entitled to reimbursement for travel and expenses as may be authorized for members of state boards and commissions generally, pursuant to G. S. 138-6. Administrative services for the committee shall be provided by the State Historic Preservation Officer or director of the Division of Archives and History, Department of Cultural Resources, as provided in the memorandum of agreement. Funding for the operations of the committee shall come from a grant provided to the State of North Carolina by the National Oceanic and Atmospheric Administration for these purposes. In the event that either the State of North Carolina or the National Oceanic and Atmospheric Administration should choose to terminate or fail to renew the aforesaid memorandum of agreement, the committee shall be abolished immediately.

Section 2. There is hereby also created the USS Monitor Research Council to be an agency under the Division of Archives and History, Department of Cultural Resources.

(a) The council shall have as its primary duties and responsibilities the following:

1. To assist the Division of Archives and History, Department of Cultural Resources, in encouraging and promoting scientific research on the USS Monitor;
2. To design research operations which will have as their aim the discovery and analysis of such data and information as may be necessary to understand the environment of the site of the USS Monitor;
3. To design research operations which will have as their aim the discovery and analysis of such data and information as may be necessary to understand the present structure and condition of the USS Monitor;
4. To coordinate and generate the necessary resources, equipment, shiptime, etc., as may be necessary to carry out the foregoing research operations and activities;
5. To select appropriate qualified researchers and research institutions to prepare field or operational plans for selected research operations who will seek the necessary permits to undertake such operations and who will carry out the operations in a scientific and scholarly manner as shall be established by the council;
6. To advise the Division of Archives and History, Department of Cultural Resources, and State of North Carolina on the development of a sound policy with regard to state involvement in Monitor research activities beyond the examination of the environment and condition of the wreck.

(b) The USS Monitor Research Council shall consist of twenty-five (25) members, at least twelve (12) of whom shall be members of the scientific and professional communities representing a broad range of those disciplines necessary for comprehensive research at the site of the USS Monitor and the remainder of whom may be citizens selected at large. The professional members of the council will be selected to represent as broadly as possible those institutions and organizations in North Carolina currently undertaking marine-based scientific, historical, and archaeological research. The citizen members of the council will be selected to represent as broadly as possible those communities, organizations, institutions, and industries with an interest in marine-based research, in the development of the coastal areas of North Carolina, and in the promotion of North Carolina's historical resources. Professional members of the council shall be appointed for terms of four years. Citizen members of the council shall be appointed for terms of either two or four years, with six of the initial appointees serving four year terms and five serving two year terms. All appointments shall be made by the Governor. Members of the council shall be entitled to reimbursement for travel expenses as authorized for members of state boards and commissions generally, pursuant to G. S. 138-6.

(c) Administrative services for the council shall be provided by the Division of Archives and History, Department of Cultural Resources, which shall provide the council with data and information relating to past research on the USS Monitor, with any master plan for research on the USS Monitor which may be developed by the division or by other organizations and agencies, and with such immediate or long-range research goals as may seem appropriate. The division shall additionally prepare an annual report for and on behalf of the council on its work for submission to the Governor and the General Assembly.

This Order shall become effective immediately. Done in
Raleigh, North Carolina, this the 31st day of March, 1978.



James B. Hunt, Jr.
GOVERNOR OF NORTH CAROLINA

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 21

North Carolina - Israel
Visiting Scholar Program

WHEREAS, the State of North Carolina and the State of Israel have common interests in using their scientific and technical capabilities to develop their resources to promote economic and social progress, and

WHEREAS, cooperation among the faculties of the University of North Carolina and Institutions of higher education in Israel would foster research on common problems, and

WHEREAS, it would be desirable for members of the faculties of the University of North Carolina and Institutions of higher education in Israel to have opportunities to use leaves of absence from their home institutions to study and teach in an appropriate institution in the other's country;

Now, therefore it is hereby ordered that:

Section 1. There is created the North Carolina - Israel Visiting Scholar Program for the purpose of granting funds to members of the faculties of the institutions of the University of North Carolina and Institutions of higher education in Israel to assist in their travel and living expenses while participating in the program.

Section 2. The President of the University of North Carolina is requested to appoint a North Carolina Committee to work with a committee from Israel to prepare guidelines for the administration of the program

and to establish criteria for the designation of participating scholars.

Section 3. Funds for the support of the program are anticipated from private sources, and grants are to be made for as many suitable awardees as can be found within budget limitations.

Section 4. This order shall become effective upon signing.

Done in the city of Jerusalem this the 9th day of April, 1978.



James B. Hunt, Jr.
GOVERNOR OF NORTH CAROLINA

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 22

WHEREAS, units of local governments are political subdivisions of the State of North Carolina and the State is obligated to provide support to these units; and

WHEREAS, North Carolina State Government agencies administer numerous programs which directly impact local government units; and

WHEREAS, there is no uniform and comprehensive structural relationship within State government which allows local governments to participate in the State's decision-making process with regard to these programs; and

WHEREAS, this Administration is committed to providing local governments with a more effective voice in the State's decision-making process; and

WHEREAS, the Governor has designated the Secretary of the Department of Natural Resources and Community Development as his Local Government Liaison;

NOW, THEREFORE, it is hereby ordered:

Section 1. The North Carolina Local Government Advocacy Council.

There is hereby established the North Carolina Local Governmental Advocacy Council consisting of fifteen (15) persons. The Council shall initially be composed as follows: six members representing county government, five who are the members of the Executive Committee of the Association of County Commissioners and one who is to be the Executive Director of the Association; six members representing municipal government, five who are the members of the Executive Committee of League of Municipalities and one who is the Executive Director of the League of Municipalities; and three at-large members appointed by the Governor. The Association of

County Commissioners and the League of Municipalities representatives shall serve terms on the Council consistent with their terms as Executive Committee members. The at-large members shall serve at the pleasure of the Governor. The Chairman and Vice Chairman shall be the President of the Association of County Commissioners and the President of the League of Municipalities respectively, with the office rotating between the two groups annually.

The Council shall meet at least once in each quarter and may hold special meetings at any time at the call of the Chairman, the Governor or the Secretary of the Department of Natural Resources and Community Development.

The members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of General Statute 138-5. The Local Government Advocacy Council shall not be considered a public office for the purpose of dual office holding.

Section 2. Purpose of the Council. The purpose of the Council is to advise the Governor and his Cabinet in regard to the development and implementation of programs which directly impact local governmental units by advocating on behalf of local government needs; functioning as a focal point for state-local relations and communications; identifying problem areas and recommending policies with respect to State, regional and local relations; and reviewing, monitoring and evaluating current and proposed State program policies, practices, procedures, guidelines and regulations with respect to their impact on local governments.

Section 3. Council Offices. The Local Government Advocacy Council shall be located, for administrative purposes, in the Department of Natural Resources and Community Development. Further, and in order to staff the Council, the Department of Natural Resources and Community Development will create and administer an Office of Local Government Advocacy. The Office of Local Government Advocacy shall be staffed by persons with experience as elected local government officials and

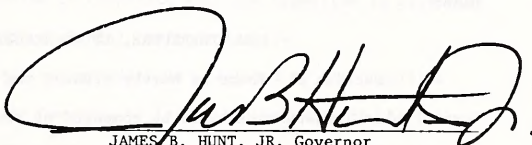
shall seek to carry out the directives of the Local Government Advocacy Council by serving as a communications focal point between the Local Government Advocacy Council and the various State departments; advocating the policies of the Council with the various State departments; functioning as an ombudsman for the resolution of local government problems; and operating a Local Government Hotline in order to facilitate communications between State and local governments.

The cost of the Local Government Advocacy Council and the Office of Local Government Advocacy shall be provided for by the various Cabinet departments on a cost-share basis.

Section 4. Responsibilities of the Cabinet Departments. It shall be the responsibility of each respective Cabinet department head to insure that the employees of his/her department make every reasonable effort to cooperate with the Local Government Advocacy Council and provide support to the Office of Local Government Advocacy in keeping with the intent of this Order.

Section 5. The Council of State. The elected heads of the Council of State Departments may, and are hereby invited, to, join in the effort represented by this Order. All services of the Council available to the Governor under this Order shall be available to each of the heads of the aforesaid departments so electing to participate.

Done in the Capital City of Raleigh, North Carolina, this 21st day of April, 1978.



JAMES B. HUNT, JR., Governor
State of North Carolina



State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 23

WHEREAS, an adequate system of rural and small city public transportation is essential for the balanced growth and economic development of North Carolina; and

WHEREAS, transportation is an essential need for all North Carolinians to take advantage of employment, social services, and personal opportunities; and

WHEREAS, the lack of adequate public transportation in the rural and small city areas of the State impacts most heavily on the elderly, handicapped and poor; and

WHEREAS, several State agencies now provide varying transportation services that may contribute to the goal of an adequate transportation service for rural and small city residents; and

WHEREAS, meeting this need is a high priority of this administration;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT

Section 1. There is hereby created the Governor's Committee on Rural Public Transportation, to be composed of twenty-five members. The Governor shall appoint sixteen members to include representation from the General Assembly, local governments, transportation providers and human resource agencies. The Chairman of the Utilities Commission, the State Superintendent of Public Instruction, the Commissioners of Agriculture and Insurance and the Secretaries of the Departments of Administration, Natural Resources and Community Development, Human Resources and Commerce, or their designees, shall serve as ex officio members of the Committee. The Secretary of Transportation shall serve as the Chairman of the Committee. Such other officers as are needed shall be selected by the

Committee. The Chairman shall be responsible for calling the meetings of the Committee.

Section 2. The Committee shall have the following duties:

- (1) To recommend a rural transportation policy for the State of North Carolina for submission to the Governor, such policy to include suggested transportation system designs that might be applied statewide at the local and/or regional levels.
- (2) To examine existing and proposed transportation policies, programs, legislation, and authorities to determine the extent to which they contribute to a desirable policy for meeting the public transportation needs in rural areas.
- (3) To propose appropriate new legislation and regulatory changes to implement the recommended policy.

Section 3. The Department of Transportation shall provide the planning and administrative support for the Committee.

Section 4. Members of the Committee shall be reimbursed for such necessary travel and subsistence expenses as are authorized by G.S. 138-5. Expenses for the Committee will be funded by the Department of Transportation.

Section 5. Every agency within State Government within my authority and within purview of the Governor's Committee on Rural Public Transportation is requested to cooperate with the Committee in providing all necessary information regarding their activities.

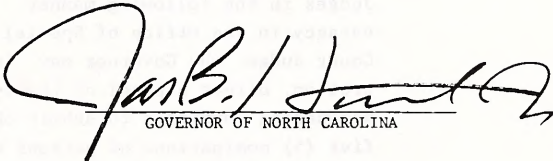
Section 6. All recommendations developed by the Committee shall be submitted to the Governor no later than November 30, 1978.

Section 7. This Order shall become effective immediately.

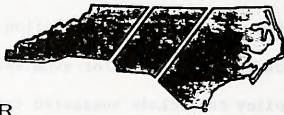
Done in the City of Raleigh, this the 28th day of April,

1978.




GOVERNOR OF NORTH CAROLINA

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 24

WHEREAS, I established the Judicial Nominating Committee by Executive Order Number 12 on July 28, 1977; and
WHEREAS, I desire to amend Executive Order Number 12;
NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. Section 3(b) as it is found on page 5 of Executive Order Number 12, dated July 28, 1977, is rewritten to read as follows:

"Section 3(b) For any vacancy in the office of Superior Court Judge, the Committee shall nominate no less than three (3) nor more than five (5) persons. Provided, however, that this Section shall not necessarily apply to vacancies for the office of Special Superior Court Judge, as discussed in Section 5."

Section 2. Section 5 as it is found on page 6 of Executive Order Number 12, dated July 28, 1977, is rewritten to read as follows:

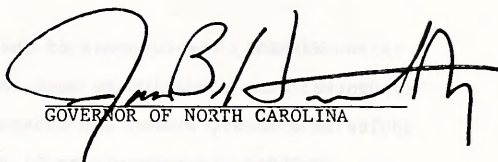
"Section 5. In order to insure appropriate geographical distribution, this Executive Order shall apply to Special Superior Court Judges in the following manner: For each vacancy in the office of Special Superior Court Judge, the Governor may, in his discretion, direct a panel of the Judicial Nominating Committee to submit three (3) to five (5) nominations of persons who reside in that panel's division to fill the vacancy, or the Governor may direct each panel to submit three (3) to five (5) nominations of persons who reside in their respective divisions to fill each vacancy. All other

rules for filling vacancies which are applicable to regular Superior Court Judges are hereby incorporated for the filling of vacancies for Special Superior Court Judges."

Section 3. This Order shall become effective immediately.

Done in Raleigh, North Carolina, this the 15th day of May, 1978.




GOVERNOR OF NORTH CAROLINA

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 25

WHEREAS, the Congress of the United States has recognized that education to meet the needs of all youth and adults is a local, state, and federal responsibility; and

WHEREAS, in recognition of the nation's critical education and training requirements, the Congress has enacted the Education Amendments of 1976, Public Law 94-482, Title II, as amended, which extends the Vocational Education Act of 1963; and

WHEREAS, Section 105(a) requires: "Any state which desires to participate in programs under this Act for any fiscal year shall establish a State Advisory Council, which shall be appointed by the Governor . . ."; and

WHEREAS, the State of North Carolina desires to receive funds under this Act to carry out the responsibilities of the State Advisory Council in accordance with the Act and for other purposes;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Section 1. There is hereby created the North Carolina Advisory Council on Education, for the purposes of implementing Section 105 of the Vocational Education Act of 1963, as extended by the Education Amendments of 1976, Public Law 94-482, Title II, as amended, and for such other purposes as may be advisable to improve education and manpower in general and vocational technical education in particular.

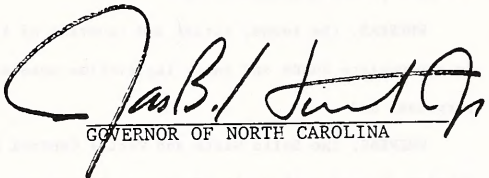
Section 2. The State of North Carolina and all of its constituent departments and agencies shall cooperate with the North Carolina Advisory Council on Education, including providing appropriate office space and support services, to assist the Council in carrying out its mandated duties as specifically set out in Section 105(4)(A); (e); (f)(2) of the Vocational Education Act of 1963, as amended, and for other purposes.

Section 3. The members of this Council shall consist of those persons who are appointed by the Governor of North Carolina and certified to the United States Commissioner of Education each year, who, to the best of the Governor's knowledge and belief meet the qualifications specified in Section 105(a) of the Vocational Education Act of 1963, as extended by Public Law 94-482, Title II, as amended.

Section 4. This Order shall become effective immediately.

Done in Raleigh, North Carolina this the 25th day of May, 1978.




GOVERNOR OF NORTH CAROLINA

State of North Carolina



JAMES B. HUNT, JR.
GOVERNOR

EXECUTIVE ORDER NUMBER 26

WHEREAS, North Carolina in its efforts to improve Solid Waste Management within its boundaries is in the process of complying with applicable portions of Public Law 94-580 known as the Resource Conservation and Recovery Act of 1976; and

WHEREAS, agency designation for planning and implementation of Solid Waste Management activities is necessary at this time; and

WHEREAS, the seventeen multi-county Planning Regions, which I designated on November 10, 1977, as the boundaries for regional planning pursuant to Section 4006 of Public Law 94-580, and their respective Lead Regional Organizations have the required resources and developed experience necessary for such planning purposes; and

WHEREAS, the towns, cities and counties of this State have the abilities to appropriate funds and enact legislation necessary for implementation purposes; and

WHEREAS, the Solid Waste and Vector Control Branch, Sanitary Engineering Section, Division of Health Services, Department of Human Resources, is to continue its role in assuming responsibilities in implementing and coordinating the requirements of the Resource Conservation and Recovery Act of 1976;

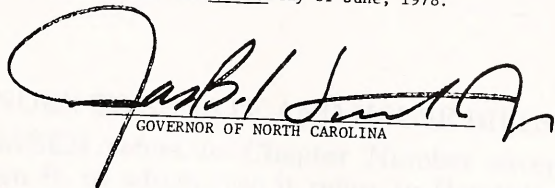
NOW, THEREFORE, IT IS HEREBY ORDERED THAT

Section 1. The seventeen multi-county Planning Regions and their respective Lead Regional Organizations are designated as the lead agencies planning for Solid Waste Management activities within their respective boundaries.

Section 2. The towns, cities and counties are designated as the agencies responsible for implementation of Solid Waste Management activities as Solid Waste is defined in the "Solid Waste Management Rules" prepared by the Department of Human Resources.

Section 3. This Order shall become effective immediately.

Done in the City of Raleigh, this the 13th day of June, 1978.


GOVERNOR OF NORTH CAROLINA



Index to Session Laws

NUMERICAL INDEX TO SENATE AND HOUSE BILLS

RATIFIED NUMBER refers to Chapter Number except when preceded by an R, in which case it refers to Resolution Number.

SENATE BILLS-SESSION 1977 SECOND SESSION 1978

<i>S.B.</i>	<i>Ratified Number</i>	<i>S.B.</i>	<i>Ratified Number</i>	<i>S.B.</i>	<i>Ratified Number</i>
37	1221	951	1180	986	1147
195	1222	952	1144	988	1235
638	1145	953	1202	992	1236
642	1200	956	1247	993	1182
680	1218	957	1203	995	1237
735	1138	958	1228	996	1238
783	1146	959	1142	998	1239
830	R120	961	1164	999	1240
896	R116	962	1179	1000	1241
914	1185	963	1229	1001	1242
918	R100	964	1248	1005	R104
919	R103	965	1230	1008	R110
920	1136	966	R101	1009	1243
925	1224	967	1231	1012	1204
927	R106	969	1249	1013	1178
928	R107	970	R102	1017	R119
931	1184	971	1219	1018	R108
935	R129	973	1232	1019	1244
936	R109	974	1143	1021	1245
941	1225	975	1181	1022	1246
942	1226	977	1250	1023	1183
944	1201	978	R131	1024	1220
946	1227	980	1251	1027	R132
949	1137	982	1233	1028	1223
950	1141	984	1234	1030	R133

NUMERICAL INDEX TO SENATE AND HOUSE BILLS
 RATTIFIED NUMBER refers to Chapter Number except
 when preceded by an R, in which case it refers to Resolution
 Number

SENATE BILLS-SESSION 1977
 SECOND SESSION 1978

Bill Number	Chapter Number	Bill Number	Chapter Number
850	1141	1251	1251
851	1142	1252	1252
852	1143	1253	1253
853	1144	1254	1254
854	1145	1255	1255
855	1146	1256	1256
856	1147	1257	1257
857	1148	1258	1258
858	1149	1259	1259
859	1150	1260	1260
860	1151	1261	1261
861	1152	1262	1262
862	1153	1263	1263
863	1154	1264	1264
864	1155	1265	1265
865	1156	1266	1266
866	1157	1267	1267
867	1158	1268	1268
868	1159	1269	1269
869	1160	1270	1270
870	1161	1271	1271
871	1162	1272	1272
872	1163	1273	1273
873	1164	1274	1274
874	1165	1275	1275
875	1166	1276	1276
876	1167	1277	1277
877	1168	1278	1278
878	1169	1279	1279
879	1170	1280	1280
880	1171	1281	1281
881	1172	1282	1282
882	1173	1283	1283
883	1174	1284	1284
884	1175	1285	1285
885	1176	1286	1286
886	1177	1287	1287
887	1178	1288	1288
888	1179	1289	1289
889	1180	1290	1290
890	1181	1291	1291
891	1182	1292	1292
892	1183	1293	1293
893	1184	1294	1294
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895	1186	1296	1296
896	1187	1297	1297
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898	1189	1299	1299
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900	1191	1301	1301
901	1192	1302	1302
902	1193	1303	1303
903	1194	1304	1304
904	1195	1305	1305
905	1196	1306	1306
906	1197	1307	1307
907	1198	1308	1308
908	1199	1309	1309
909	1200	1310	1310
910	1201	1311	1311
911	1202	1312	1312
912	1203	1313	1313
913	1204	1314	1314
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947	1238	1348	1348
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949	1240	1350	1350
950	1241	1351	1351
951	1242	1352	1352
952	1243	1353	1353
953	1244	1354	1354
954	1245	1355	1355
955	1246	1356	1356
956	1247	1357	1357
957	1248	1358	1358
958	1249	1359	1359
959	1250	1360	1360
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961	1252	1362	1362
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963	1254	1364	1364
964	1255	1365	1365
965	1256	1366	1366
966	1257	1367	1367
967	1258	1368	1368
968	1259	1369	1369
969	1260	1370	1370
970	1261	1371	1371
971	1262	1372	1372
972	1263	1373	1373
973	1264	1374	1374
974	1265	1375	1375
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978	1269	1379	1379
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987	1278	1388	1388
988	1279	1389	1389
989	1280	1390	1390
990	1281	1391	1391
991	1282	1392	1392
992	1283	1393	1393
993	1284	1394	1394
994	1285	1395	1395
995	1286	1396	1396
996	1287	1397	1397
997	1288	1398	1398
998	1289	1399	1399
999	1290	1400	1400

Index to Session Laws

HOUSE BILLS - SESSION 1977 SECOND SESSION 1978

<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>
285	1135	1570	1170	1623	1214
540	1256	1571	1171	1624	R117
682	1133	1572	1172	1627	R114
783	1257	1573	1173	1628	1270
802	1134	1574	R111	1629	1271
931	1215	1575	1262	1633	1193
1013	1186	1579	1263	1634	1189
1021	1217	1580	1284	1638	1272
1200	1205	1581	1264	1643	1273
1201	1216	1582	1174	1644	1288
1224	1206	1585	1149	1647	1290
1367	1258	1586	1265	1648	1281
1383	R134	1587	1150	1651	1198
1390	1139	1588	1151	1652	1197
1424	1187	1590	1152	1653	1274
1489	1132	1591	1266	1655	1291
1510	1252	1592	1211	1656	1298
1529	1259	1593	1153	1657	1275
1537	1253	1594	1154	1658	R118
1538	1254	1595	1267	1663	1289
1539	1191	1596	1285	1664	1292
1540	1255	1597	1286	1665	1140
1547	1192	1598	1155	1666	1293
1548	1280	1599	1156	1667	1276
1551	R123	1600	1157	1671	1294
1552	1260	1602	1158	1672	1295
1553	1194	1603	R124	1673	R115
1555	1282	1604	1175	1674	1277
1556	1261	1605	1176	1675	R130
1557	1148	1606	1177	1676	1278
1559	1207	1607	1159	1677	R105
1560	1208	1608	1268	1678	R112
1561	1209	1610	1212	1679	R113
1562	1188	1611	R125	1680	1190
1563	1165	1613	1269	1683	1279
1564	1210	1614	1160	1684	R127
1565	1166	1615	R126	1685	1199
1566	1283	1616	1161	1686	1195
1567	1167	1619	1213	1687	1196
1568	1168	1620	1162	1688	R121
1569	1169	1621	1287	1689	1163

Index to Session Laws

<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>
1691	R128	1694	R135
1692	R122	1695	R136
1693	1296	1696	1297
1694	1298	1697	1299
1695	1299	1698	1300
1696	1300	1699	1301
1697	1301	1700	1302
1698	1302	1701	1303
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1766	1370	1769	1371
1767	1371	1770	1372
1768	1372	1771	1373
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1967	1571	1970	1572
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1969	1573	1972	1574
1970	1574	1973	1575
1971	1575	1974	1576
1972	1576	1975	1577
1973	1577	1976	1578
1974	1578	1977	1579
1975	1579	1978	1580
1976	1580	1979	1581
1977	1581	1980	1582
1978	1582	1981	1583
1979	1583	1982	1584
1980	1584	1983	1585
1981	1585	1984	1586
1982	1586	1985	

Index to Session Laws

INDEX TO 1977 SESSION LAWS

SECOND SESSION 1978

Suggestions for use: When looking for a local law, look under the name of the particular county, city or town involved. When looking for a law which amends or repeals a certain law, look under "Laws Amended or Repealed".

Chapter

A

Ad Valorem Taxes—see Taxes and Assessments: Ad Valorem property taxes

Advisory Budget Commission:

Approval of building renovations	1219
Self-liquidating capital appropriations	1136

Administration, State Department of:

Land records management program appropriation	1289
State-owned office space:	
Fees for use by self-supporting agencies	1219
Inventory appropriation	1244

Aged:

Nursing home advisory committees:

Appointment	1192
Training appropriation	1255
School buses, use of	1280

Agriculture:

Research and extension programs appropriation	1250
Shrubbery development appropriation	1236

Agriculture, State Department of—pseudorabies qualification

program appropriation	1277
-----------------------------	------

Airports and Aircraft:

Carolina Beach Airport Authority creation	1141
Laurinburg-Maxton Airport Commission	1166
Loans to airports not publicly owned	1219

Albemarle, Museum of the—appropriation 1225 |

Alcoholic Beverages:

Driving under the influence, punishment for	1222
Mixed beverage sales, local option on	1138
Public drunkenness crime abolished	1134

Alleghany County:

Clerk of court appropriation	1243
Forest resources headquarters building appropriation	1262

Index to Session Laws

Chapter

Amendments—see Laws Amended or Repealed

Animals (see also Wildlife)—welfare of animals 1217

Anson County—wound reports 1199

Apple Chill Cloggers appropriation 1275

Appropriations:

Agricultural research and extension programs 1250

Albemarle, Museum of the 1225

Apple Chill Cloggers 1275

Archives, State:

Services 1242

Western N. C. office 1258

Avery County High School Cloggers 1266

Blackbeard: Knight of the Black Flag Drama 1267

Capital improvements to State government 1136

Certificate of need implementation 1239

Clerks of court:

Caldwell County 1264

Chowan County 1245

Cumberland County 1276

Dare County 1260

Harnett County 1231

Hertford County 1261

Martin County 1265

Northampton County 1245

Retirement:

Cost of living increase 1270

Transfer between systems 1293

Richmond County 1269

Robeson County 1283

Scotland County 1263

Various counties 1243

Cleveland County Historical Museum 1259

Colonial records publication 1233

Court personnel in various counties 1243

Current operations of State government 1136, 1219

(Chapters 1136 and 1219 contain numerous special provisions.

Each of these Chapters contains an index of the special provisions within it.)

District attorneys:

Assistant in second district 1268

Retired—cost of living increase 1271

Eastern Carolina Sheltered Workshop 1232

Eastern Music Festival 1253

Index to Session Laws

Chapter

Appropriations:—continued

Fire and rescue instructors	1279
FM radio network	1281
Forest resources headquarters building—Alleghany County	1262
Free enterprise instruction in public schools	1295
General Assembly members' salary increase	1249
Glaucoma and diabetes detection program	1257
Governor's salary increase	1249
Health Adventure	1246
Health education program	1256
Inventory of state-owned buildings and lands	1244
Investigatorial assistant	1228
Lake Waccamaw Park Ranger	1287
Land records management program	1289
Magistrates:	
Durham County	1274
Halifax County	1230
Martin County	1273
Various counties	1243
Marine resource centers personnel	1286
Medical Cost Containment, Legislative Commission on	1241
Mountain Horticultural Crops Research Station appropriation	1290
National guard tuition assistance	1247
Nineteenth judicial district, division of	1238
Nursing home advisory committees training	1255
Octagon-Shaped House	1284
Prepaid Health Plans, Commission on	1291
Pseudorabies qualification program	1277
Public school employees' salaries study	1292
Rattlesnake Mountain Career Development Center	1251
Rutherford County bicentennial	1254
SBI agents	1229
School bus accident victims	1227
Seaboard Coastline Building	1288
Secretary in 22nd prosecutorial district	1234
Shrubbery development	1236
Spencer Shops	1282
Town Creek Indian Mound	1226
Tryon Palace security system	1235
UNC Board of Governors—agricultural research and extension programs	1250
Wilmington port terminal design and feasibility studies	1285
World's Fair study	1272

Archives, State—see Cultural Resources, State Department of

Index to Session Laws

Chapter

Ashe County:

Clerk of court appropriation	1243
Magistrate appropriation	1243

Asheville, City of:

Policemen's and firemen's pension funds	1164
Western N. C. Office of Archives and History Division— appropriation	1258

Assessments—see Taxes and Assessments

Atlantic Beach, Town of— title of governing board	1159
--	------

Auctioneers Commission— fees	1219
---	------

Auditor, State:

Audits for federal agencies	1136
Law enforcement officers' benefit and retirement fund transfer	1204

Automobiles—see Motor Vehicles

Avery County:

Elk Park, Town of—see that heading	
High school cloggers appropriation	1266
Magistrate appropriation	1243

B

Banking Records, Study Commission on Access to and Confidentiality of— creation	1181
--	------

Banks and Banking (see also Savings and Loan Institutions):

Access to and Confidentiality of Banking Records, Study Commission on	1181
Commissioner's records and bank examinations	1181

Beaufort County— clerk of court appropriation	1243
--	------

Belwood, Town of— incorporation	1208
--	------

Blackbeard: Knight of the Black Flag drama appropriation	1267
---	------

Bladen County— home health services, exemption from law requiring ...	1184
--	------

Bonds:

Industrial and pollution control facilities financing authorities— "project" definition	1197
Local governments—time period for issuance of bonds	1219
N. C. Industrial and Pollution Control Facilities Financing Authority creation	1198

Buncombe County:

Asheville, City of—see that heading	
Clerk of court appropriation	1243

Index to Session Laws

Chapter

Burke County:

- Drexel, Town of—see that heading
- Library board membership 1168

Buses—see Motor Vehicles, and Schools

C

Cabarrus County Hospital:

- Board of trustees 1154
- Sale of corporate stock 1174

Cable Television—theft of service 1185

Caldwell County—clerks of court appropriation 1264

Camden County—ABC Board appointment by board of commissioners 1171

Capital Improvements—see particular category and Appropriations

Carolina Beach Airport Authority—creation 1141

Carteret County—Pine Knoll Shores, Town of—see that heading

Catawba County:

- Clerk of court appropriation 1243
- Transfer territory from Maiden fire protection district to Bandys fire protection district 1201

Certificates of Need for Health Care Facilities:

- Appropriation 1239
- Statutory requirement 1182

Chapel Hill, Town of—planning board powers 1158

Charlotte, City of—civil service board subpoena power 1161

Charters—see particular category

Cherokee Indians—see Indians

Cherryville, City of—subdivision review board creation 1160

Children—see Minors

Chowan County—clerk of court appropriation 1245

Cities and Towns—see Municipal Corporations

Civil Procedure:

- Defenses—recrimination and *res judicata* in divorce actions 1190
- Removal of divorce action to county where defendant resides 1223

Clerks of Court—see Courts

Cleveland County:

- Belwood, Town of—see that heading

Index to Session Laws

Chapter

Cleveland County:—continued

- Historical museum appropriation 1259
- Mooresboro, Town of—see that heading

Coharie Indians—see Indians

Colleges and Universities:

- Community colleges:
 - Full-time equivalent teaching positions formula 1136
 - Personnel salary appropriations not for new positions 1136
 - Underenrollment 1219
- Private colleges, aid to students attending 1136
- Students—discharge of loans excluded from gross income 1221
- Tuition—national guard appropriation 1247
- UNC Board of Governors:
 - Agricultural research and extension programs appropriation 1250
 - Institutional trust funds 1136
 - Personnel salary appropriations not for new positions 1136
 - Student auxiliary enterprises funds 1136
 - Television network funds 1136

Colonial Records of N. C.—publication appropriation 1233

Columbus County:

- Non-residents attending public schools 1140
- Police and Board of Public Safety referendum 1133

Commissions, Committees, Councils and Boards—see particular heading; Open Meetings; Studies; and Resolution Index

- Advisory Budget Commission
- Auctioneers Commission
- Banking Records, Study Commission on Access to and Confidentiality of
- Indian Affairs, Commission of
- Law Enforcement Officers Liability Insurance Study Commission
- Medical Cost Containment, Legislative Commission on
- Mental Health Study Commission
- Prepaid Health Plans, Commission on
- Soil and Water Conservation Commission, State
- Utilities Commission

Condemnation—see Eminent Domain

Corporations—non-profit corporations receiving public funds 1195

Correction, State Department of:

- Antirecession funds appropriation repeal 1136
- Juvenile probation and aftercare funds 1136

Cougars—see Wildlife

Index to Session Laws

Chapter

Councils —see Commissions, Committees, Councils, and Boards; and particular category	
Counties (see also Municipal Corporations):	
Adults, assistance to—mandatory county participation for domiciliary care	1152
Home health services	1184
Industrial and pollution control facilities financing authorities	1197
Non-profit corporations receiving public funds	1195
Retirement—see that heading	
Courts:	
Administrative Office of the Courts study assistant district attorneys' salaries	1136
Clerks of Court:	
Retirement:	
Cost of living increase	1270
Transfer between retirement systems	1293
Salary increase	1136
District attorneys—see that heading	
Judicial branch officials cost of living salary increase	1136
Magistrates' maximum salary increase	1136
Nineteenth judicial district divided	1238
Personnel appropriation	1243
Twenty-seventh judicial district division—effective date	1219
Crime Control and Public Safety, State Department of —copies of	
N. C. Appellate Division Reports	1219
Crimes:	
Cable television service, theft of	1185
Cougars, possession of	1296
Driving under the influence	1222
Public drunkenness	1134
Criminal Procedure:	
Attorneys for indigents in capital cases—funds limitations	1219
Restitution provisions reenacted	1147
Speedy trials	1179
Technical amendments	1147
Cultural Resources:	
Appropriations:	
Albermarle, Museum of the	1225
Apple Chill Cloggers	1275
Archives, State—appropriation	1242
Avery County High School Cloggers	1266
Blackbeard; Knight of the Black Flag Drama	1267
Cleveland County Historical Museum	1259

Index to Session Laws

Chapter

Cultural Resources:—continued

Appropriations:—continued

Colonial records publication	1233
Eastern Music Festival	1253
Octagon-Shaped House	1284
Seaboard Coastline Building	1288
Spencer Shops	1282
Town Creek Indian Mound	1226
Tryon Palace security system	1235
Western N. C. Office of Archives and History Division	1258

Cultural Resources, State Department of:

Archives services appropriation	1242
Western N. C. Office of Archives and History Division	1258

Cumberland County:

ABC profits distribution	1163
Bingo	1188
Clerks of court appropriation	1276

D

Dare County:

Clerk of court appropriation	1260
Nags Head, Town of—see that heading	

Departments, State:

Advisory boards creation	1219
Data processing evaluation	1219
Evaluation of new programs	1219
Surplus office equipment	1219

Diabetes Detection Program 1257

District Attorneys:

Assistant district attorneys:

Salaries study	1136
Second district	1268
Investigatorial assistant in 28th district— appropriation	1228
Personnel appropriation	1243
Secretary in 22nd district—appropriation	1234

Divorce:

Recrimination or <i>res judicata</i> , defense of—clarifying amendment	1190
Removal to county where defendant resides when plaintiff leaves State	1223

Drexel, Town of—corporate limits and community center 1203

Index to Session Laws

	<i>Chapter</i>
Drugs —driving under the influence	1222
Durham County:	
Affidavits of persons suing as paupers	1176
Magistrates appropriation	1274
E	
Eastern Carolina Sheltered Workshop appropriation	1232
Eastern Music Festival appropriation	1253
Edgecombe County:	
ABC board election by board of commissioners	1155
Bingo and raffles	1188
Education, State Board of —school buses to be used by the elderly	1280
Elderly Persons —see Aged	
Elk Park, Town of —ABC election	1162
Eminent Domain —appraisal of value of land for property taxes to exclude land taken under power of eminent domain	1297
Employees, State:	
Incentive pay	1219
Privacy of personnel information	1207
Public school employees—see Schools	
Retirement—see that heading	
Salaries—see that heading	
Sick pay study	1219
Travel and subsistence allowances	1136, 1237
Environment:	
Industrial and pollution control authorities	1197
N. C. Industrial and Pollution Control Facilities Financing Authority	1198
Solid waste management:	
Penalties and remedies	1205
Rewrite of laws concerning	1216
Watershed grants	1206
F	
Federal Funds —budgeting of	1219
Federal Revenue Sharing —capital appropriation	1136
Fees (see also Salaries):	
Auctioneers Commission	1219
Medical examiners	1145
Registers of deeds	1132

Index to Session Laws

Chapter

Fees (see also Salaries):—continued	
Utilities Commission transcripts	1219
Fish and Fishing —licensing of commercial vessels owned by nonresidents	1183
FM Radio Network appropriation	1281
Forsyth County —clerk of court appropriation	1243
Foxes —see Wildlife	

G

Game and Game Laws —see Hunting, Fish and Fishing, and Wildlife	
Gaston County:	
Cherryville, City of—see that heading	
Gastonia, City of—see that heading	
Magistrate appropriation	1243
Gastonia, City of —conditional use zoning districts	1149
General Assembly:	
Employees cost of living salary increase	1136
Legislative Research Commission studies:	
Public school employees' salaries	1292
Temporary State employees' retirement	1294
Legislative Services Commission study of World's Fair participation ...	1272
Principal clerks' duties and compensation	1278
Salary increase for legislators	1249
Glaucoma detection program	1257
Governor:	
Expense allowance	1136
Salary increase	1249
Greene County —clerk of court appropriation	1243
Guilford County:	
Clerk of court appropriation	1243
High Point, City of—see that heading	

H

Halifax County —magistrate appropriation	1230
Haliwa Indians —see Indians	
Harnett County:	
Ambulance services—attachment or garnishment	1144
Clerk of court appropriation	1231
Haywood County —clerk of court appropriation	1243

Index to Session Laws

	<i>Chapter</i>
Health Adventure appropriation	1246
Henderson County —clerk of court appropriation	1243
Hertford County —clerk of court appropriation	1261
Higher Education —see Colleges and Universities	
High Point, City of —career service commission subpoena power	1170
Highway Fund, State —unreserved credit balances	1136
History —see Cultural Resources	
Hospitals:	
Cabarrus County Hospital:	
Board of trustees	1154
Sale of corporate stock	1174
Certificates of need	1182, 1239
Johnston County Memorial Hospital board of trustees	1151
N. C. Memorial Hospital capital improvements	1136
Telephone commissions	1146
Hotels and Motels —telephone commissions	1146
Human Resources, State Department of:	
Glaucoma and diabetes detection program	1257
Health services non-federal cost sharing report	1219
Medicaid rules	1219
Nursing home advisory committees training appropriation	1255
Solid waste management:	
Penalties and remedies	1205
Rewrite of laws concerning	1216
Hunting (see also Fish and Fishing, and particular heading for local acts)—fox hunting in certain counties	1211
Hyde County —home health services, exemption from law requiring	1184
I	
Indian Affairs, Commission of —rewrite of laws concerning	1189
Indians —reenactment of laws concerning	1193
Industrial and Pollution Control Facilities Financing Authorities:	
N. C. Authority creation	1198
“Project” definition	1197
Industrial and Pollution Control Facilities Financing Authority,	
N. C.—creation	1198
Insurance:	
Law Enforcement Officers Liability Insurance Study Commission	1137
Reinsurance facility coverage for motor carriers	1135

Index to Session Laws

Chapter

Insurance, State Department of —fire and rescue instructors appropriation	1279
Inventories —manufacturers' income tax credit	1200
Iredell County —Statesville, City of—see that heading	

J

Jacksonville, City of —annexation restriction	1150
Johnston County Memorial Hospital —board of trustees membership	1151
Jones County —home health services, exemption from law requiring	1184
Judges —see Courts	
Judicial Districts —see Courts and District Attorneys	
Justices —see Courts	
Justice, State Department of —Judicial Advisory Unit funds transfer	1248

L

Lake Waccamaw State Park —ranger appropriation	1287
Land Records Management appropriation	1289
Laurinburg, City of —Laurinburg-Maxton Airport Commission	1166
Law Enforcement Officers:	
Benefits and retirement fund transfer	1204
Firearm training center appropriation	1251
Liability insurance study commission continuation	1137
Minimum salary program—funds transfer	1248
SBI agents, additional—appropriation	1229
Law Enforcement Officers Liability Insurance Study Commission —continuation	1137
Laws Amended or Repealed:	
1817 Private Laws:	
Chapter 60	1212
1827-28 Private Laws:	
Chapter 144	1212
1835 Private Laws:	
Chapter 133	1212
1872-73 Private Laws:	
Chapter 69	1212
1874-75 Private Laws:	
Chapter 142	1212

Index to Session Laws

Chapter

Laws Amended or Repealed:—continued

1909 Private Laws:	
Chapter 173	1212
1913 Private Laws:	
Chapter 24	1203
1917 Private Laws:	
Chapter 205	1212
Chapter 642	1212
1921 Private Laws:	
Chapter 57	1212
1933 (Extra Session) Private Laws:	
Chapter 32	1203
1935 Public-Local Laws:	
Chapter 159	1142
Chapter 307	1154
1937 Public Laws:	
Chapter 381	1176
1937 Public-Local Laws:	
Chapter 433	1159
1939 Public-Local Laws:	
Chapter 343	1159
1943 Session Laws:	
Chapter 365	1142
1945 Session Laws:	
Chapter 1061	1212
1949 Session Laws:	
Chapter 561	1188
1951 Session Laws:	
Chapter 639	1212
1955 Session Laws:	
Chapter 148	1212
1957 Session Laws:	
Chapter 1135	1212
1961 Session Laws:	
Chapter 371	1203
1965 Session Laws:	
Chapter 713	1161
Chapter 743	1203
Chapter 892	1163
1967 Session Laws:	
Chapter 262	1167
Chapter 1106	1148
1971 Session Laws:	
Chapter 910	1149

Index to Session Laws

Chapter

Laws Amended or Repealed:—continued

1973 Session Laws:

Chapter 265	1177
Chapter 359	1165
Chapter 473	1158
Chapter 1160	1173

1975 Session Laws:

Chapter 123	1219
Chapter 175	1153

1977 Session Laws:

Chapter 188	1164
Chapter 248	1170
Chapter 289	1156
Chapter 301	1148
Chapter 491	1188
Chapter 495	1210
Chapter 537	1219
Chapter 711	1147
Chapter 802	1136, 1219
Chapter 843	1199
Chapter 959	1191
Chapter 1024	1227
Chapter 1031	1219
Chapter 1130	1219

Legislative Services Commission—see General Assembly

Legislature—see General Assembly

Lenoir County:

Bingo	1175
Construction on county-owned land	1180

Liberty, Town of—property leases 1143

Licenses and Licensing:

Alcoholic beverages—see that heading	1138
Ambulatory surgical facilities	1214
Animal shelters, pet shops, etc.	1217
Fishing vessels, nonresident-owned commercial	1183

Lieutenant Governor—expense allowance 1136

Lincoln County—magistrate appropriation 1243

Liquors—see Alcoholic Beverages

Loans—student loan discharge excluded from gross income 1221

Local Governmental Employees' Retirement System—see Retirement

Index to Session Laws

Chapter

Lumbee Indians—see Indians

Mc

McDowell County—clerk of court appropriation 1243

M

Macon County—Board of education election, membership, terms 1148

Madison County—magistrate appropriation 1243

Magistrates—see Courts

Marine Resource Centers—personnel appropriation 1286

Martin County:

 Clerk of court appropriation 1265

 Magistrate appropriation 1273

Maxton, Town of—Laurinburg-Maxton Airport Commission 1166

Mecklenburg County:

 Charlotte, City of—see that heading

 Clerk of court appropriation 1243

Medicaid—see Social Services

Medical Cost Containment, Legislative Commission on—
 appropriation 1241

Medical Examiners—fees 1145

Medical Services:

 Ambulatory surgical facilities licensing 1214

 Nursing home advisory committees:

 Appointment 1192

 Training appropriation 1255

 Prepaid Health Plans, Commission on—creation 1291

Meetings, Open—see Open Meetings

Mental Health Study Commission—inpatient mental health services
 review 1219

Mill Machinery—maximum sales tax for subcontractors 1218

Minors—child support act amendments 1186

Mobile Homes—see Motor Vehicles

Montgomery County—fox hunting regulated 1142

Moore County—clerk of court appropriation 1243

Mooresboro, Town of—incorporation 1209

Morrisville, Town of—corporate limits 1202

Motels—see Hotels and Motels

Index to Session Laws

Chapter

Motor Vehicles:

- Driving under the influence, punishment for 1222
- Insurance—see that heading
- Mobile homes moving permits 1187
- Permits for buses which exceed statutory weight limits 1178

Mountain Horticultural Crops Research Station Building

- Appropriation** 1290

Municipal Corporations (see also Counties):

- Non-profit corporations receiving public funds 1195
- Redevelopment commissions—members owning land in redevelopment
area 1139
- Retirement—see that heading

Municipalities—see Municipal Corporations

Museums—see Cultural Resources

N

- Nags Head, Town of**—subordination of reverter clause 1173

- National Guard**—tuition assistance appropriation 1247

Natural Resources and Community Development, State

Department of:

- Forest development equipment 1219
- Forest services headquarters building in Alleghany County
appropriation 1262

Non-Profit Corporations—see Corporations

Northhampton County:

- Clerk of court appropriation 1245
- Conflicts of interest exemption 1152

- Nurses**—dealings with physicians' assistants 1194

Nursing Homes—see Medical Services

> O

- Octagon-Shaped House appropriation** 1284

Onslow County:

- Bingo 1169
- Jacksonville, City of—see that heading

- Open Meetings** 1191

Index to Session Laws

Chapter

Orange County—Chapel Hill, Town of—see that heading

P

Pamlico County —home health services, exemption from law requiring	1184
Parent and Child —child support act amendments	1186
Parties, Political —income tax check-off	1298
Pensions —see Retirement	
Physicians' Assistants	1194
Pine Knoll Shores, Town of —board of commissioners	1177
Police —see Law Enforcement Officers	
Political Parties —see Parties, Political	
Polk County —ambulance services—garnishment or attachment	1157
Pollution —see Environment	
Ports —Wilmington terminal studies appropriation	1285
Prepaid Health Plans, Commission on —creation	1291
Principal Clerks —see General Assembly	
Privacy —State employees personnel information	1207
Property Taxes —see Taxes and Assessments: Ad valorem property taxes	
Pseudorabies Qualification program appropriation	1277
Public Health:	
Glaucoma and diabetes detection program	1257
Home health services	1184
School health education	1256

R

Radio —statewide FM radio network appropriation	1281
Randolph County —Liberty, Town of—see that heading	
Rattlesnake Mountain Career Development Center appropriation	1251
Redevelopment Commissions —see Municipal Corporations	
Referendums —mixed beverage sales	1138
Registers of Deeds —fees	1132
Repeal —see Laws Amended or Repealed and particular category	
Restaurants —mixed beverage sales, local option on	1138

Index to Session Laws

Chapter

Retirement:

Clerks of court:	
Cost of living increase	1270
Transfer between retirement systems	1293
District attorneys—cost of living increase appropriation	1271
Law enforcement officers' benefit and retirement fund transfer	1204
Local governmental employees retirement benefits	1240
Retired employees returning to work, study of	1219
Retired teachers and State employees hospitalization benefits	1136
Temporary State employees' retirement study	1294

Revenue Sharing—see Federal Revenue Sharing

Richmond County —clerk of court appropriation	1269
--	------

Robeson County:

Clerk of court appropriation	1283
Maxton, Town of—see that heading	

Rutherford County:

Bicentennial appropriation	1254
Board of education election filing date	1165

S

Salaries (see also Fees):

Governor	1249
Members of General Assembly	1249
Public school employees' salaries study	1292
State employees:	
Cost of living increase	1136
Merit salary increments	1213
Salary adjustment appropriations—funds transfers	1136
Salary-related contributions—source of funds	1136
Travel and subsistence allowances	1136, 1237

Savings and Loan Institutions—intangibles tax applied to stock-owned

savings and loan associations	1220
-------------------------------------	------

SBI—see Law Enforcement Officers

Schools:

Buses:	
Accident victims appropriation	1227
Dangerous walking areas appropriation	1136
Elderly using school buses	1280
Driver training personnel, summer—salary increase	1136
Exceptional children program	1136
Free enterprise appropriation	1295
Health education appropriation	1256

Index to Session Laws

Chapter

Schools:—continued

Junior high school class size reduction	1219
Maintenance and custodial leadership positions	1219
Public school employees':	
Cost of living salary increase	1136
Longevity payments	1136
Salaries study	1292
Science and Mathematics, N. C. School of	1219

Scotland County:

Clerks of court appropriation	1263
Laurinburg, City of—see that heading	

Seaboard Coastline Building appropriation 1288

Social Services:

Aged and family care—non-federal cost sharing	1219
Adults, mandatory county participation in assistance to	1252
Community mental health centers:	
Inpatient services	1219
Start-up costs	1136
Medicaid:	
Claims processing	1219
Income eligibility standards	1224
Payment schedules	1136
Rules of Department of Human Resources	1219
Shares of non-federal costs	1219

Soil and Water Conservation Commission, State—watershed

grants	1206
--------------	------

Solid Waste—see Environment

Speedy Trials—see Criminal Procedure

Spencer Shops appropriation 1282

Stantonsburg, Town of—charter revision 1212

State Employees—see Employees, State

State, Secretary of—certified mail 1219

Statesville, City of—power of eminent domain for streets and highways 1156

Students—see Colleges and Universities; and Schools

Studies—(see also Commissions, Committees, Councils and Boards; particular category; and Resolution Index):

Assistant district attorneys' salaries	1136
Banking records, access to and confidentiality of	1181
Liability insurance for law enforcement officers	1137
Medical cost containment	1241

Index to Session Laws

	<i>Chapter</i>
Studies —continued	
Public school employees' salaries	1292
Retired employees returning to work	1219
Temporary State employees' retirement	1294
World's fair participation	1272
Surry County —magistrate appropriation	1243
T	
Taxes and Assessments:	
Ad Valorem property taxes:	
Appraisal—exclusion from comparable sales of land taken under power of eminent domain	1297
Manufacturers' inventory tax credit	1200
Mobile home tax permits	1187
Income tax:	
Campaign tax check-off	1298
Credit for property taxes paid on manufacturers' inventories	1200
Student loan discharge excluded from gross income	1221
Intangibles tax—stock-owned savings and loan associations	1220
Motor fuel tax refunds	1215
Sales and use tax:	
Agricultural medications exemption	1219
Mill machinery	1218
Taxicabs —motor fuel tax refunds	1215
Teachers —see Schools	
Town Creek Indian Mound appropriation	1226
Transportation —motor fuel tax refunds	1215
Transylvania County —clerk of court appropriation	1243
Treasurer, State —law enforcement officers' benefit and retirement fund transfer	1204
Tribes —see Indians	
Tryon Palace —security system appropriation	1235
Tuition —see Colleges and Universities	
Tyrrell County —coroner	1172

U

University of N. C. —see Colleges and Universities	
Utilities Commission —transcript fees	1219

Index to Session Laws

Chapter

Utilities, Public:

- Motor carriers—reinsurance facility coverage 1135
- Telephones—commissions for hotels, motels, and hospitals handling
intrastate calls 1146

V

- Vance County—board of education filing date 1167

W

Waccamaw Siouan Indians—see Indians

Wake County:

- Clerk of court appropriation 1243
- Morrisville, Town of—see that heading

- Watauga County—deed recordation without tax payment 1153

- Watersheds—state grants 1206

- Weight Limits—passenger buses 1178

Welfare—see Social Services

Wildlife:

- Cougars, possession of 1296
- Foxes—hunting in certain counties 1211

Wilmington, City of:

- City council, bonds 1210
- Port terminal design and feasibility studies appropriation 1285

- Wilkes County—clerk of court appropriation 1243

- Wilson, City of—redevelopment of land, private land sales, and joint
activities 1196

Wilson County:

- Stantonsburg, Town of—see that heading
- Wilson, City of—see that heading

- World's Fair Participation Study 1272

Index to Resolutions

INDEX TO THE RESOLUTIONS

1977 GENERAL ASSEMBLY

SECOND SESSION 1978

	<i>Resolution Number</i>
A	
Adjournment Sine Die	132
Advisory Budget Commission:	
Income tax cut, consideration of	131
Unemployment compensation tax exemption	133
Aging study continued	106
Alcoholic beverage sales to minors —authorizing resolution	121
Ambulatory Surgical Facilities —authorizing resolution	100
Anson County wound reports —authorizing resolution	105
Authorizing Resolutions:	
Alcoholic beverage sales to minors	121
Ambulatory surgical facilities, licensing of	100
Anson County wound reports	105
Banking amendments	100
Buncombe county tax collector vacancy	110
Bus weight limits, passenger	104
Cafeteria workers in public schools—minimum wage	109
Certificate of need for hospitals:	
Constitutional amendment	100
Statutory requirement	100
Commendations:	
Belhaven Bulldogs basketball teams	125
Duke University basketball team	103
Garner High School girls' basketball team	114
Washington "Pam Pack" basketball team	124
Commercial fishing vessels, licensing of	108
Condemnation of land—use of sales price by tax assessors	118
Cougars, possession of	123
Criminal procedure technical amendments	100
Cumberland County alcoholic beverage profit distribution—authorizing resolution	113
Divorce amendment clarification	100
Indian tribes, reenactment of statutes concerning	100
Intangibles Tax Study Commission establishment	112
Law Enforcement Officers Liability Insurance Study extension	100
Local legislation, introduction of	100

Index to Resolutions

*Resolution
Number*

Authorizing Resolutions:—continued

Motor vehicle dealer bonds	126
Nonprofit provider corporations	111
Parking on Legislative Building grounds, study of	129
Personnel Commission nominees, joint session to consider	102
Public employees:	
Merit salary increments	100
Privacy of records	100
Rutherford County bicentennial, commemoration of	117
Speedy trials technical amendments	100
Tax check-off for political campaign funds	100
Utilities Commission nominees, joint session to consider	100
Wilson, City of—contracts and joint activities	115

B

Banking amendments—authorizing resolution	100
Belhaven Bulldogs basketball teams	125, 135
Buncombe County tax collector vacancy—authorizing resolution	110
Bus weight limits, passenger—authorizing resolution	104

C

Cafeteria workers' minimum wage—authorizing resolution	109
Campaign fund tax check-off—authorizing resolution	100
Cemeteries, abandoned—study committee creation	134
Certificate of need for hospitals—authorizing resolution	100
Commemorations and Celebrations (see also Commendations):	
Rutherford County bicentennial	117, 122
Commendations (see also Commemorations and Celebrations):	
Belhaven Bulldogs basketball teams	125, 135
Duke University basketball team	103, 119
Garner High School girls' basketball team	114, 127
Washington "Pam Pack" basketball team	124, 136
Commercial fishing vessels' licenses—authorizing resolution	108
Commissions (see particular heading):	
Advisory Budget Commission	
Intangibles Tax Study Commission	
Legislative Research Commission—see General Assembly	
Legislative Services Commission—see General Assembly	
Personnel Commission, State	
Utilities Commission	

Index to Resolutions

	<i>Resolution Number</i>
Condemnation of land, tax assessors' computation of value— authorizing resolution	118
Corporations, nonprofit provider—authorizing resolution	111
Cougars, possession of—authorizing resolution	123
Criminal procedure technical amendments—authorizing resolution	100
Cumberland County alcoholic beverage profits distribution— authorizing resolution	113

D

Divorce amendment clarification—authorizing resolution	100
Duke University basketball team	103, 119

E

Employees—see Public Employees

F

Fishing vessels licensing—authorizing resolution	108
---	-----

G

Garner High School girls' basketball team	114, 127
General Assembly:	
Adjournment sine die	132
Joint sessions:	
Personnel Commission nominees confirmation—authorizing resolution	102
Utilities Commission nominees confirmation	100, 101
Legislative Research Commission Studies (see also Session Law Index):	
Aging—continued	106
Retirement tax shelter	120
School clerical personnel	116
Legislative Services Commission study of legislative parking— authorizing resolution	129

H

Home health and homemaker services study	107
---	-----

I

Indian tribes statutes reenacted—authorizing resolution	100
--	-----

Index to Resolutions

	<i>Resolution Number</i>
Intangibles Tax Study Commission—creation	112, 128
L	
Law Enforcement Officers Liability Insurance Study extension— authorizing resolution	100
Legislative Research Commission—see General Assembly	
Legislative Services Commission—see General Assembly	
Local legislation, introduction of—authorizing resolution	100
M	
Minors, alcoholic beverage sales to—authorizing resolution	121
Motor Vehicles:	
Dealer bonds—authorizing resolution	126
Motor Vehicle Property Tax Study continued	130
N	
Nonprofit provider corporations—authorizing resolution	111
P	
Parking on legislative grounds study—authorizing resolution	129
Passenger bus weight limits—authorizing resolution	104
Personnel Commission nominees' confirmation—authorizing resolution	102
Public Employees:	
Cafeteria workers' minimum wage—authorizing resolution	109
Merit salary increments—authorizing resolution	100
Privacy of records—authorizing resolution	100
Retirement tax shelter study	120
R	
Rutherford County bicentennial	117, 122
S	
Schools:	
Cafeteria workers' minimum wage—authorizing resolution	109
Clerical personnel study	116
Speedy trials technical amendments—authorizing resolution	100

Index to Resolutions

*Resolution
Number*

Studies:

Abandoned cemeteries	134
Aging—continued	106
Home health and homemaker services	107
Income tax cut	131
Income tax exemption for unemployment benefits	133
Intangibles tax	112, 128
Law Enforcement Officers Liability Insurance Study extension— authorizing resolution	100
Motor vehicles property tax	130
Parking on legislative grounds—authorizing resolution	129
School clerical personnel	116
State employees retirement tax shelter	120

T

Taxation:

Income taxes:

Advisory Budget Commission to study tax cut	131
Political campaign fund check-off—authorizing resolution	100
Unemployment compensation tax exemption	133
Intangibles tax study	112, 128
Property tax on motor vehicles study continued	130
Retirement tax shelter for State employees, study of	120

U

Utilities Commission nominees confirmation	100, 101
---	-----------------

W

Wages, minimum—cafeteria workers in public schools	109
Washington "Pam Pack" basketball team	124, 136
Wilson, City of—contracts and joint activities authorizing resolution	115
Wound reports in Anson County—authorizing resolution	105





